

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
James v. Comm'n for Lawyer Discipline, 310 S.W.3d 598	302+1	A pleading's purpose is to give fair notice of a party's claims and the relief sought.	Is giving fair notice of a party's claims and the relief sought the purpose of pleading?	023553.docx	LEGALEASE-00145830-LEGALEASE-00145831
Peru Coal Co. v. Merrick, 79 Ill. 112	307A+726	A second application for a continuance at the same term will not be heard, unless the second application is based upon facts that have arisen after the first motion was overruled; and, where a second application is made upon substantially the same grounds as the first, it should be overruled, although the facts stated are sufficient to authorize a continuance.	Can a second application for continuance be admitted?	Pretrial Procedure - Memo # 5836 - C - SS.docx	ROSS-003304821-ROSS-003304822
Perotti v. Ferguson, 454 N.E.2d 951	307A+746	Trial court may, sua sponte, dismiss action for nonappearance at pretrial conference. Rules Civ.Proc., Rule 41(B)(1).	"Can a trial court, sua sponte, dismiss an action for nonappearance at a pretrial conference?"	Pretrial Procedure - Memo # 6488 - C - BP.docx	ROSS-003288340-ROSS-003288341
Dorsey v. Nold, 362 Md. 241	307A+746	Sanctions are available for the violation of directives in scheduling orders, although they are not specified in any rule. Md.Rule 2-504.	"Are sanctions available for the violation of directives in scheduling orders, although they are not specified in any rule?"	034038.docx	LEGALEASE-00145111-LEGALEASE-00145112
Farm Bureau Mut. Ins. Co. v. Schwan, 687 N.W.2d 388	307A+552	A court will not dismiss an issue as moot if it is capable of repetition and likely to evade review.	Will a court dismiss an issue as moot if it is capable of repetition and likely to evade review?	Pretrial Procedure - Memo # 6521 - C - SB.docx	ROSS-003303206-ROSS-003303207
E.I. DuPont De Nemours & Co. v. Sidran, 140 So. 3d 620	307A+563	To support a dismissal based upon a fraud on the court, the court must find the false testimony was directly related to the central issue in the case.	Should whatever scheme of fraud a court finds be supported by clear and convincing evidence that goes to the very core issue at trial?	034096.docx	LEGALEASE-00145302-LEGALEASE-00145303
Wyeth Ayerst Pharm. v. Assessor of Town of Champlain, 24 A.D.3d 849	307A+560	Failure to properly serve party is jurisdictional defect subjecting proceeding to dismissal.	Is failure to properly serve a party a jurisdictional defect subjecting proceeding to dismissal?	Pretrial Procedure - Memo # 6552 - C - SJ.docx	ROSS-003288367-ROSS-003288368
Schneller v. St. Mary's Hosp. Med. Ctr., 162 Wis. 2d 296	307A+748	Primary concern of circuit court when addressing untimely motion to amend scheduling order is the accommodation of conflicting interests of permitting parties to fully present their case, preventing prejudice to opposing party, and deterring litigants from flaunting court orders and interfering with the orderly administration of justice; circuit court must consider whether moving party has demonstrated cause for amending the scheduling order and whether the interests of justice would be served by granting the amendment. W.S.A. 801.15(2)(a), 802.10.	Is the circuit court's broad discretion in the matter of sanctioning parties for violating scheduling orders absolutely essential to the court's ability to efficiently and effectively administer its calendar?	034332.docx	LEGALEASE-00145675-LEGALEASE-00145676
Newell v. Engel, 899 P.2d 273	307A+46	Harshest of all sanctions for failure to obey order to provide or permit discovery is dismissal or entry of default judgment, which should be imposed only in extreme circumstances. Rules Civ.Proc., Rule 37(b)(2).	Is the dismissal or entry of default judgment the harshest of all sanctions and should be imposed only in extreme circumstances?	Pretrial Procedure - Memo # 6678 - C - PC.docx	ROSS-003288429
Haley v. Simmons, 529 F.2d 78	313+158	Dismissal is not invariably required where service is ineffective: under such circumstances court has discretion to either dismiss action or quash service but retain the case.	Is dismissal not invariably required where service is ineffective?	034666.docx	LEGALEASE-00145354-LEGALEASE-00145355
Carolina Marina & Yacht Club v. New Hanover Cty. Bd. of Comm'rs, 207 N.C. App. 250	15A+1724(2)	If the issues before a court or administrative body become moot at any time during the course of the proceedings, the usual response should be to dismiss the action.	Will an action be dismissed if the issues become moot?	Pretrial Procedure - Memo # 6973 - C - NS.docx	ROSS-003289924-ROSS-003289925

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Jackson Cty. Bd. of Election Comm'rs ex rel. Brown v. City of Lee's Summit, 277 S.W.3d 740	13+6	A case is "moot" if the decision would have no practical effect upon an existent controversy; when an event occurs that makes a court's decision unnecessary or makes it impossible for the court to grant effectual relief, the case is moot and generally should be dismissed.	"Is a case ""moot"" if the decision would have no practical effect upon an existent controversy?"	Pretrial Procedure - Memo # 6988 - C - VP.docx	ROSS-003289947-ROSS-003289948
State ex rel. AG Processing v. Pub. Serv. Comm'n, 276 S.W.3d 303	13+6	A case is "moot" if the decision would have no practical effect upon an existent controversy.	"Is a case ""moot"" if the decision would have no practical effect upon an existent controversy?"	034803.docx	LEGALEASE-00145766-LEGALEASE-00145767
Johnson v. Eugene Emergency Physicians, P.C., 159 Or. App. 167	307A+563	Dismissal is a "drastic" sanction to be reserved for the most severe violations of rules and court orders.	"Is a dismissal a ""drastic"" sanction to be reserved for the most severe violations of rules and court orders?"	Pretrial Procedure - Memo # 7073 - C - AP.docx	ROSS-003315550-ROSS-003315551
Denson v. T.D.C.J.-I.D., 63 S.W.3d 454	307A+552	Trial court may dismiss a claim as frivolous when it has no arguable basis in law or fact. V.T.C.A., Civil Practice & Remedies Code S 14.003(a)(2), (b)(2).	Can a court dismiss claim as frivolous if claim has no arguable basis in law?	Pretrial Procedure - Memo # 7146 - C - PB.docx	ROSS-003289951-ROSS-003289952
Holder v. Sheet Metal Worker's Internat. Assn., 121 Cal. App. 3d 321	307A+551	If legislative policy that defendants faced with a lawsuit should have reasonable opportunity to locate evidence and witnesses in preparing a defense conflicts with judicial policy that, subject to plaintiff's exercise of reasonable diligence, an action should be tried on the merits wherever possible, the judicial policy predominates.	Should an action be tried on the merits wherever possible?	Pretrial Procedure - Memo # 7163 - C - SU.docx	ROSS-003289479-ROSS-003289480
State v. John F.M., 285 Conn. 52	307A+563	A defendant or plaintiff who fails to produce evidence, when he is ordered to do so, is in default and case may go against him on this ground.	Is a defendant or plaintiff who fails to produce evidence in default and case can go against him on this ground?	Pretrial Procedure - Memo # 7172 - C - KBM.docx	ROSS-003289965-ROSS-003289966
Isaacs v. Am. Iron & Steel Co., 690 N.W.2d 373	307A+552	Issue generally may be dismissed as moot if an event occurs that resolves the issue or renders it impossible to grant effective relief.	"Should a case be dismissed as moot, whenever an event occurs that renders a decision unnecessary?"	035225.docx	LEGALEASE-00145889-LEGALEASE-00145890
Weeden v. City of Beloit, 22 Wis. 2d 414	307A+552	Power to dismiss groundless, vexatious, and harassing litigations is inherent in courts, and vexatious action will be dismissed where it is clear that there is no meritorious cause of action.	Can a vexatious action be dismissed where it is clear that there is no meritorious cause of action?	035242.docx	LEGALEASE-00145944-LEGALEASE-00145945
Johnson v. Landmark First Nat. Bank, 415 So. 2d 161	307A+563	Ultimate sanction of dismissal for attorney's failure to comply with trial court's orders should be employed only in aggravated situations.	Should the ultimate sanction of dismissal for an attorney's failure to comply with trial court's orders be employed only in aggravated situations?	035430.docx	LEGALEASE-00145174-LEGALEASE-00145175
Pixton v. Williams Scotsman, 924 So. 2d 37	307A+563	Lacking involvement or complicity by the client, an attorney's misconduct should not result in a dismissal of an action.	"Would an attorney's misconduct result in a dismissal of an action, when clients involvement or complicity is lacking?"	Pretrial Procedure - Memo # 7448 - C - NS.docx	ROSS-003317067-ROSS-003317068
D.C. v. Serafin, 617 A.2d 516	307A+563	Trial court has authority to dismiss action when plaintiff fails to comply with order of court. Civil Rule 41(b).	Does a trial court have authority to dismiss an action when a plaintiff fails to comply with order of court?	035553.docx	LEGALEASE-00146345-LEGALEASE-00146346
Tisdale v. Stone & Webster Eng'g Corp., 595 F. Supp. 1016	413+1	Different workmen's compensation schemes enacted by the several states are complex and best administered by the individual state's agencies or courts.	"Who should administer workmens compensation laws, agencies or courts?"	01711.docx	LEGALEASE-00092054-LEGALEASE-00092055
State ex rel. Blankenship v. Richardson, 196 W. Va. 726	92+961	It is duty of legislature to consider facts, establish policy, and embody that policy in legislation; it is duty of court, however, to determine constitutionality of legislation.	"Does the Court sit as a superlegislature, or is it the legislatures duty to consider the facts, establish, policy, and embody the policy in legislation?"	10671.docx	LEGALEASE-00095449-LEGALEASE-00095450

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Larson v. Wisconsin Dep't of Indus., Labor & Human Relations, 76 Wis. 2d 595	92+2528	Workmen's compensation is wholly statutory and questions as to what should properly be the public policy concerning it are determined by the legislature and not by the courts.	"For workers compensation, is it the legislature or the courts that determine the questions regarding what should properly be the public policy?"	11498.docx	LEGALEASE-00094446- LEGALEASE-00094447
United States v. Kay, 200 F. Supp. 2d 681	63+2	Payments made by the defendants to foreign government officials for purpose of reducing customs duties and taxes did not fall under the scope of provision of the Foreign Corrupt Practices Act (FCPA), prohibiting payments to foreign officials to obtain or retain business; although the plain language of the statute was ambiguous, legislative history showed that the Congress specifically rejected proposed language to broaden the "obtain or retain business" clause that would have covered the defendants' conduct. Securities Exchange Act of 1934, S 30A(a), as amended, 15 U.S.C.A. S 78dd-1(a); Foreign Corrupt Practices Act of 1977, S 104(a), 15 U.S.C.A. S 78dd-2(a).	"Is the plain language of a provision of FCPA, prohibiting payments to foreign officials to obtain or retain business ambiguous?"	10757.docx	LEGALEASE-00094285- LEGALEASE-00094286
United States v. Dixon, 658 F.2d 181	63+3	A defendant charged with aiding and abetting a bribery need not be present at the time of the delivery. 18 U.S.C.A. SS 2, 201(b)(2).	Does a defendant charged with aiding and abetting a bribery need to be present at the time of the delivery?	10759.docx	LEGALEASE-00094402- LEGALEASE-00094403
United States v. Hernandez, 731 F.2d 1147	282+105	Witness bribery statute is to be broadly construed in order to effectuate its legislative purpose of deterring corruption. 18 U.S.C.A. S 201.	Should section 201 be broadly construed in order to effectuate its legislative purpose of deterring corruption?	Bribery - Memo #918 - C - JL_57456.docx	ROSS-003293484-ROSS- 003293486
Hafen v. United States, 30 Fed. Cl. 470	260+29	If unpatented mining claim is found valid, claimant gains certain exclusive possessory rights, but no rights arise from invalid claim of any kind.	Does any right arise from an invalid claim of any kind?	Mines and Minerals - Memo #281 - C - EB?_57475.docx	ROSS-003293466
St. Romain v. Midas Expl., 430 So. 2d 1354	260+58	Although it is necessary that mineral leases be in writing, it is not essential that lessee sign written instrument; what is required is that lessee indicate consent to lease agreement. LSA-C.C. arts. 1797, 1798, 1803, 1811, 1816-1818.	"Given that a mineral lease must be in writing, is it essential that the lessee sign the written instrument?"	Mines and Minerals - Memo #288 - C - CSS_57480.docx	ROSS-003296290-ROSS- 003296291
Atl. Oil Co. v. Los Angeles Cty., 69 Cal. 2d 585	260+83	Right to drill for and produce oil when granted is a profit a prendre, a right to remove part of substance of land.	Is the exclusive right to drill for and produce oil when granted a profit a prendre?	021566.docx	LEGALEASE-00147710- LEGALEASE-00147711
McCulloch v. Murphy, 125 F. 147	260+38(14)	The burden of proving an abandonment of a mining claim, or that the required annual assessment work has not been done, so as to render it subject to relocation, rests on the party asserting it, and the proof must be clear and convincing to establish a forfeiture.	Can a forfeiture of a mining claim be established upon clear and convincing proof of the failure of the former owner to have work performed?	Mines and Minerals - Memo #294 - C - EB_57486.docx	ROSS-003279760-ROSS- 003279761
Corkum v. Clark, 263 Mass. 378	296+7	Remedy under law authorizing pensions, providing determination of claims by administrative officers, is exclusive.	"When the law provides that claims for pensions are to be finally determined by administrative officers, is that the exclusive remedy?"	Pension - Memo 60 - RK_57646.docx	ROSS-003279174-ROSS- 003279175
Hare v. First Nat. Bank, 272 S.W. 261	296+9	Mortgages or other contracts limiting pensioners' rights to receive and use proceeds of warrants void.	Are contracts or arrangements limiting a pensioners or a public officers rights to receive and use proceeds of warrants void?	022856.docx	LEGALEASE-00147856- LEGALEASE-00147857
Orgain v. Butler, 478 S.W.2d 610	302+49	Plaintiff, in pleading, is only required to make concise statement of facts on which he relies, and court will then grant proper relief.	Is a plaintiff only required to make a concise statement of the facts upon which he relies?	023581.docx	LEGALEASE-00147610- LEGALEASE-00147611
Neff v. Brady, 527 S.W.3d 511	302+228.14	The purpose of special exceptions is to compel clarification of a pleading that fails to plead a cause of action or is not clear or sufficiently specific.	Is the purpose of special exceptions to compel clarification of a pleading?	023588.docx	LEGALEASE-00147758- LEGALEASE-00147759

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Brown v. Kidney & Hypertension Assocs., L.L.P., 5 So. 3d 258	307A+590.1	Mere contact with opposing counsel is insufficient to prevent abandonment of an action; a litigant must take some step in the prosecution or defense of the case in the trial court that hastens the case toward judgment. LSA-C.C.P. art. 561.	Is mere contact with opposing counsel insufficient to prevent abandonment of an action?	Pretrial Procedure - Memo # 7614 - C - RY.docx	ROSS-003286349-ROSS-003286350
Leetaru v. Bd. of Trustees of Univ. of Illinois, 2015 IL 117485	307A+686.1	A motion to involuntarily dismiss based upon certain defects or defenses admits the sufficiency of the complaint, but asserts affirmative matter that defeats the claim. S.H.A. 735 ILCS 5/2-619.	Will a motion to involuntarily dismiss assert affirmative matter that defeats the claim?	11020.docx	LEGALEASE-00094224-LEGALEASE-00094225
Lewis v. Morgan, 79 So. 3d 926	307A+561.1	Affirmative defense appearing on the face of a complaint can be grounds for a motion to dismiss. West's F.S.A. RCP Rules 1.110(d), 1.140(b).	Will an affirmative defense appearing on the face of a complaint be a ground for motion to dismiss?	11038.docx	LEGALEASE-00094518-LEGALEASE-00094519
Treaster v. Betts, 324 S.W.3d 487	307A+561.1	A pre-trial dismissal based on an affirmative defense must be granted under the standards of summary judgment.	Will a pre-trial dismissal based on affirmative defense be granted under the standards of summary judgement?	Pretrial Procedure - Memo # 7688 - C - NS.docx	ROSS-003313425-ROSS-003313426
Giraldo v. Cossin, 399 So. 2d 540	307A+590.1	Action cannot advance toward trial unless court has jurisdiction over party sued.	Can action advance toward trial unless a court has jurisdiction over a party sued?	11224.docx	LEGALEASE-00094791-LEGALEASE-00094792
New Bar Partnership v. Martin, 729 S.E.2d 675	307A+561.1	A complaint may be properly dismissed for absence of law to support a claim, absence of facts sufficient to make a good claim, or the disclosure of some fact that necessarily defeats the claim. Rules Civ.Proc., Rule 12(b)(6).	When can a complaint be properly dismissed?	Pretrial Procedure - Memo # 7772 - C - KS.docx	ROSS-003300154-ROSS-003300155
Buss Aluminum Prod. v. Crown Window Co., 651 So. 2d 694	307A+590.1	Timely authorized reply to affirmative defense is pleading that constitutes record activity, for purposes of determining whether suit should be dismissed for failure to prosecute.	Is a timely authorized reply to an affirmative defense is a pleading that constitutes record activity?	Pretrial Procedure - Memo # 7776 - C - CK.docx	ROSS-003300165-ROSS-003300166
Fontenot v. Blue Cross Ass'n, 485 So. 2d 1001	307A+590.1	A party takes a "step" in a prosecution or defense of a suit within meaning of abandonment of action article (LSA-C.C.P. art. 561) when he takes formal action, before the court or on the record, intended to hasten the matter to judgment.	Is an action taken by any party considered a step under statute governing abandonment of actions?	036124.docx	LEGALEASE-00148016-LEGALEASE-00148017
Fortune v. Com., 14 Va. App. 225	352H+288	Where conduct of accused, under conditions and circumstances described, points with reasonable certainty to specific intent to commit rape, intent is established.	Can a defendants specific intent to commit rape be inferred from the circumstances?	042973.docx	LEGALEASE-00147964-LEGALEASE-00147965
R.W. v. Schrein, 263 Neb. 708	352H+190	An intent to inflict injury can be inferred as a matter of law in cases of sexual abuse.	Can intent to inflict injury be inferred as a matter of law in sexual abuse cases?	042984.docx	LEGALEASE-00147976-LEGALEASE-00147977
Hormann v. New Hampshire Ins. Co., 236 Kan. 190	413+45	Employee, as well as employer, is bound by rules and procedures set forth in the Workmen's Compensation Act. K.S.A. 44-501 et seq.	"Are parties to employment contracts bound by the remedies, rules, and procedures set forth by the Workers Compensation Act?"	11454.docx	LEGALEASE-00094746-LEGALEASE-00094747
Hill v. John Chezik Imports, 797 S.W.2d 528	413+2	Workers' Compensation Act is substitutional, supplanting all other common-law rights of an employee if the Act applies. V.A.M.S. S 287.010 et seq.	"If the Workers' Compensation Act applies, is the act substitutional, supplanting all other common-law rights of an employee?"	Workers Compensation - Memo #486 ANC.docx	ROSS-003300422-ROSS-003300423
State v. Travelers Ins. Co., 70 Conn. 590	24+125	A state has a right to debar aliens from holding stock in its corporations, or to admit them to that privilege only on such terms as it may prescribe.	Does a state have a right to debar or admit aliens from holding shares in her corporations?	Aliens_Immigration and_1qzq_IBz1xtMW1-c6arVVDtSBstCAu3Wr.docx	ROSS-000000298-ROSS-000000299
Katsoris v. WME IMG, 237 F. Supp. 3d 92	25T+182(1)	There is nothing irrevocable about an agreement to arbitrate, and under a variety of circumstances one party may waive or destroy by his conduct his right to insist upon arbitration.	Is there anything irrevocable about an agreement to arbitrate?	Alternative Dispute Resolution - Memo 783 - RK.docx	LEGALEASE-00037924-LEGALEASE-00037926

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Hill v. Ricoh Americas Corp., 603 F.3d 766	25T+182(1)	An important consideration in determining whether a party has waived its right to arbitration is maintenance of the combined efficiency of the public and private dispute-resolution systems.	Is maintenance of the combined efficiency of the public and private dispute-resolution systems an important consideration?	007912.docx	LEGALEASE-00148999-LEGALEASE-00149000
Yeoman v. United States, 400 F.2d 793	34+20.6(6)	Exemption from armed service for ministers is to be extended only to leaders of various faiths and not to members generally. Universal Military Training and Service Act, S 1 et seq., 50 U.S.C.A. App. S 451 et seq.	Is exemption from the armed service for ministers extended only to leaders of various faiths and not to members generally?	Armed Services - Memo 312 - RK_58126.docx	ROSS-003278996-ROSS-003278997
Farmers State Bank v. Doering, 80 Ill. App. 3d 959	8.30E+52	A "note" is a unilateral instrument containing an express and absolute promise of signer to pay a specific person or order, or bearer, a definite sum of money at a specified time.	"How is a note referred to as,under the law?"	010565.docx	LEGALEASE-00148707-LEGALEASE-00148708
Empire Millwork Corp. v. Lapides, 155 F. Supp. 765	195+47	Under the Uniform Negotiable Instruments Act providing that a holder may retain his right of action against a party secondarily liable even without his consent, fact that composition agreement extended time for payment on note by the primary obligor did not also operate to extend time for payment by the indorser-guarantor until the same date. Code Md.1951, art. 13, S 140(6).	When can a person secondarily liable discharged?	010576.docx	LEGALEASE-00148480-LEGALEASE-00148481
Jackson Bros. v. Harpeth Nat. Bank, 12 Tenn. App. 464	83E+401	Where the holder of an instrument transfers it for value, without indorsing it, the transfer vests in the transferee such title as the transferer had therein, but subject to defenses good against the transferer; and failure of consideration is a good defense.	Does the transferee become the owner subject to all defenses enforceable against the transferor?	010591.docx	LEGALEASE-00148332-LEGALEASE-00148333
Clark v. Peabody, 22 Me. 500	83E+501	The ratification by the payee of an indorsement made thereon by one assuming to act as his agent without authority operates as an indorsement only from the time of the ratification.	How does ratification of an indorsement without authority by payee operate?	Bills and Notes -Memo 702-DB_58207.docx	ROSS-003307390-ROSS-003307391
United States v. Madeoy, 912 F.2d 1486	63+13	Whether individual is public official within meaning of bribery statute is question of law. 18 U.S.C.A. S 201(a)(1).	Is the question of whether someone is a public official within the meaning of the bribery statute a question of law or fact?	012017.docx	LEGALEASE-00148071-LEGALEASE-00148072
In Interest of M.M., 571 So. 2d 112	67+7	Ownership of building or structure is material element of burglary and must be proven as alleged in order to support conviction. West's F.S.A. S 810.02.	Is ownership of the building or structure a material element of burglary?	Burglary - Memo 267 - RK.docx	LEGALEASE-00038299-LEGALEASE-00038300
In Interest of M.M., 571 So. 2d 112	67+7	Ownership of building or structure is material element of burglary and must be proven as alleged in order to support conviction. West's F.S.A. S 810.02.	Is ownership of the building or structure a material element of burglary?	Burglary - Memo 267 - RK_58149.docx	ROSS-003307882-ROSS-003307883
Newman v. RAG Wyoming Land Co, 53 P.3d 540	260+55(5)	Parties can sever coalbed methane from remainder of oil and gas estate and convey it separately.	Can parties sever the coalbed methane from the remainder of the oil and gas estate?	Mines and Minerals - Memo #262 - C - CSS_57983.docx	ROSS-003282223-ROSS-003282224
Hovden v. Lind, 301 N.W.2d 374	260+55(5)	The term "minerals" as used in a reservation clause in a land sale contract excludes clay and scoria, as well as gravel.	"Does the word mineral in a land sale contract exclude gravel, clay, and scoria?"	Mines and Minerals - Memo #265 - C - CSS_57986.docx	ROSS-003282443-ROSS-003282444
Dye v. Duncan, Dieckman & Duncan Min. Co., 164 F. Supp. 747	260+23(1)	In order to avoid forfeiture of a mining claim, the locator or his agent must perform annual labor. 30 U.S.C.A. S 28.	"To avoid forfeiture of a claim and maintain a state mining claim, must the locator or claim holder perform annual labor?"	Mines and Minerals - Memo #331 - C - EB_57996.docx	ROSS-003292433-ROSS-003292434
Saul v. Cahan, 153 A.D.3d 947	302+18	A cause of action sounding in breach of fiduciary duty must be pleaded with particularity. McKinney's CPLR 3016(b).	Should a cause of action for breach of fiduciary duty be pleaded with particularity?	023592.docx	LEGALEASE-00148534-LEGALEASE-00148535

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Bright v. Frank Russell Investments, 191 Wash. App. 73	302+20	Litigants in good faith may raise alternative legal grounds for a desired outcome.	Can litigants in good faith raise alternative legal grounds for a desired outcome?	Pleading - Memo 474 - RMM.docx	LEGALEASE-00038555-LEGALEASE-00038556
Gambino v. Standard Fire Ins. Co., 12-474 (La. App. 5 Cir. 2/21/13)	307A+590.1	A step by one party prevents abandonment of a suit for lack of prosecution as to all of the parties, even though they are not solidarily liable. LSA-C.C.P. art. 561.	Does a step by one party prevent abandonment of a suit for lack of prosecution as to all of the parties?	035051.docx	LEGALEASE-00148312-LEGALEASE-00148313
Berde v. N. Shore-Long Island Jewish Health Sys., 98 A.D.3d 932	307A+590.1	Where a case is not marked off or stricken from the trial calendar, but is removed from the calendar for another reason, the case is not subject to dismissal as an abandoned case. McKinney's CPLR 3404.	"Where a case is not marked off or stricken from the trial calendar, is the case not subject to dismissal as an abandoned case?"	035067.docx	LEGALEASE-00148382-LEGALEASE-00148383
Louisiana Dep't of Transp. & Dev. v. Bayou Fleet, 37 So. 3d 1066	307A+590.1	Any formal discovery in a case is considered a step in the prosecution, as required to avoid dismissal for abandonment, whether or not filed in the record, provided it has been served on all the parties. LSA-C.C.P. art. 561.	Is any formal discovery in a case considered a step in the prosecution?	Pretrial Procedure - Memo # 7787 - C - PC_57812.docx	ROSS-003279360-ROSS-003279361
Mullarkey v. Florida Feed Mills, 268 So. 2d 363	413+19	Concept of exclusiveness of remedy embodied in workmen's compensation statute providing that the Act is the exclusive source of liability of the employer if the employee has accepted the Act is a rational mechanism for making the compensation system work in accord with the purposes of the Act since, in return for accepting vicarious liability for all work-related injuries regardless of fault, and surrendering his traditional defenses and superior resources for litigation, employer is allowed to treat compensation as a routine cost of doing business, while employee trades his tort remedies for a system of compensation without contest, thus sparing him the cost, delay and uncertainty of a claim in litigation. F.S.A. S 440.11.	What does the employee relinquish or trade for compensation?	048354.docx	LEGALEASE-00148729-LEGALEASE-00148730
Randall v. Chrysler Corp., 135 Mich. App. 415	413+2	Rights to benefits under the workers' compensation scheme are purely statutory and the legislature has the prerogative to redefine the extent of those benefits.	Does the Legislature have the prerogative to redefine the extent of workers compensation benefits?	048358.docx	LEGALEASE-00148737-LEGALEASE-00148738
State v. Smith, 10 R.I. 258	18+4	Under Rev.St. c. 829, S 4, providing for punishment of one selling adulterated milk, the seller of milk takes upon himself the risk of knowing that the article which he offers for sale is not adulterated, rendering it unnecessary to show a guilty intent or knowledge.	"In a prosecution for adulteration, is it the responsibility or the risk of the vendor or a seller to know about the articles he sells or deals with? "	Adulteration- Memo 56-_1Uo8Cz-OKWvopkJL3D0luUm_FCS V36g7Z.doc	ROSS-000000137-ROSS-000000138
In re Woodberry, 383 B.R. 373	83E+426	Under South Carolina law, when a negotiable note payable to order is endorsed generally by the payee, the note and its incidents pass in the commercial world by delivery.	How a negotiable note payable to order is passed in the commercial world?	Bills and Notes -Memo 983-DB_58713.docx	ROSS-003308329
Sterling & Snapp v. Bender, 7 Ark. 201	83E+426	A bill or note indorsed in blank is transferable by delivery only, and so long as the indorsement continues in blank, it makes the bill or note in effect payable to bearer.	Can a bill or note indorsed in blank is payable to bearer?	Bills and Notes -Memo 993-DB_58717.docx	ROSS-003307269-ROSS-003307270
Guernsey v. Imperial Bank of Canada, 188 F. 300	8.30E+14	The laws of the place where an indorsement is signed or is delivered so that it becomes a contract govern the necessity of some presentment, demand, and notice of dishonor.	Does the law of the place where the indorsement is signed govern the validity?	Bills and Notes-Memo-1040-SB_60165.docx	ROSS-003321753-ROSS-003321754
Secy. of Veterans Affairs v. Leonhardt, 2015-Ohio-931	83E+426	When an instrument is indorsed in blank, the instrument becomes payable to bearer and may be negotiated by transfer of possession alone until specially indorsed. R.C. S 1303.25(B).	Is a note indorsed in blank payable to its bearer?	Bills and Notes-Memo 92-PR_58232.docx	ROSS-003324841-ROSS-003324842

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Putnam v. Shoaf, 620 S.W.2d 510	289+559	An individual's right in specific partnership property is the partnership tenancy possessory right of equal use or possession by partners for partnership purposes; that possessory right is incident to the partnership and the possessory right does not exist in the absence of the partnership; the possessory right is not the partner's interest in the assets of the partnership as the real interest of the partner is his share of the profits and surplus. T.C.A. SS 61-1-123 to 61-1-125.	Is the partners interest in the partnership his share of the profits and surplus?	Partnership - Memo 483 - RK_58655.docx	ROSS-003284691-ROSS-003284693
James River Equip. v. Mecklenburg Utilities, 179 N.C. App. 414	302+53(1)	Liberal pleading rules permit pleading in the alternative, and alternative theories may be pursued in the complaint even if plaintiff may not ultimately be able to prevail on both. Rules Civ.Proc., Rule 8(e)(2), West's N.C.G.S.A. S 1A-1.	Do liberal pleading rules permit pleading in the alternative?	Pleading - Memo 483- RMM_58678.docx	ROSS-003278391-ROSS-003278392
West v. Robinson, 486 S.W.3d 669	307A+622	A claim filed in forma pauperis has no arguable basis in law, warranting dismissal without a hearing, if it relies on an indisputably meritless legal theory. Tex. Civ. Prac. & Rem. Code Ann. S 13.001.	Does a claim have any arguable basis in law if it relies on an indisputably meritless legal theory?	Pretrial Procedure - Memo # 7976 - C - SU_58338.docx	ROSS-003279515-ROSS-003279516
Ashcroft v. Iqbal, 556 U.S. 662	170A+1772	To survive motion to dismiss, complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face; claim has "facial plausibility" when plaintiff pleads factual content that allows court to draw reasonable inference that defendant is liable for misconduct alleged. Fed.Rules Civ.Proc.Rule 12(b)(6), 28 U.S.C.A.	Only a complaint that states a plausible claim for relief survives a motion to dismiss for failure to state a claim?	Pretrial Procedure - Memo # 7981 - C - CK_58343.docx	ROSS-003281785-ROSS-003281786
Minnesota Humane Soc. v. Minnesota Federated Humane Societies, 611 N.W.2d 587	307A+581	Because parties to civil litigation have no legal duty to settle, a refusal to do so is not tantamount to a refusal to prosecute.	Is a refusal to settle tantamount to a refusal to prosecute since parties to civil litigation have no legal duty to settle?	Pretrial Procedure - Memo # 8186 - C - RY_58761.docx	ROSS-003282509-ROSS-003282510
Hendriksen v. Young Men's Christian Ass'n of San Diego, 173 Cal. App. 2d 764	308+188	Both principal and agent may be sued in single action, but verdict exonerating agent is declaration that agent has done no wrong and necessarily exonerates principal. West's Ann.Civ.Code, SS 2338, 2339.	Is a verdict exonerating the agent a declaration that the agent has done no wrong?	041380.docx	LEGALEASE-00149835-LEGALEASE-00149836
State v. Tedesco, 175 Conn. 279	308+92(1)	A principal may delegate to agent all that he himself can do except acts peculiarly personal or acts regulated by statute which are required to be performed personally.	Can acts which are required to be performed personally by statute be delegated?	Principal and Agent - Memo 145 - RK_58692.docx	ROSS-003282141
State v. Most, 578 N.W.2d 250	352H+190	The intent requisite to conviction for lascivious acts with a child may be inferred from the nature of the act itself, and proof of acts of a similar nature is unnecessary. I.C.A. S 709.8.	Can intent for lascivious acts with a child be inferred from the nature of the act?	042992.docx	LEGALEASE-00149798-LEGALEASE-00149799
United States v. Murphy, 556 F. Supp. 2d 1232	3.77E+03	A person may intimidate another without intentionally making a direct or even veiled threat.	Can you intimidate someone without actually making a direct or even veiled threat?	"Threats, Stalking, and Harassment- Memo #1 - C - LB_58583.docx"	ROSS-003321189-ROSS-003321190
United States v. St. Louis Coffee & Spice Mills, 189 F. 191	178+5	The word "adulteration," as used in Food and Drugs Act June 30, 1906, c. 3915, S 2, 34 Stat. 768, 21 U.S.C.A. S 2, means to corrupt, debase, or make impure by an admixture of a foreign, or a baser substance.	What is adulteration as used in the Food and Drugs Act (Act)?	Adulteration-Memo 9-PR_1V9XW3o4wtNnOUjh wVdef7Rx1Rt71VTi_.docx	ROSS-000000164-ROSS-000000165

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Overton v. Hardin, 46 Tenn. 375	83E+467	An indorser for value, has no remedy against the maker for costs incurred by him in his own defense, but an accommodation indorser may recover from the maker the cost incurred in resisting, in good faith and upon reasonable grounds, a recovery against him upon his indorsement.	Can an accommodation indorser recover from the maker?	Bills and Notes - Memo 791- ANM_58710.docx	ROSS-003283252-ROSS-003283253
Cady v. Bay City Land Co., 102 Or. 5	83E+431	Since one who writes his name on the back of a negotiable instrument may enlarge or restrict his liability without destroying his character as an indorser, a writing by the payee on the back of a promissory note, "Notice of protest waived and payment guaranteed," passed title to his assignee; such guaranty of payment being equivalent to an indorsement, and the rights of the parties, in view of Or.L. S 7910, ORS 71.118, requiring protest only in case of foreign bills of exchange, not being affected by such waiver of notice.	"Are indorsements with waiver of notice, demand and protest capable of passing title? "	010984.docx	LEGALEASE-00150472-LEGALEASE-00150473
Hardy v. De Leon, 5 Tex. 211	156+22(2)	A recital of one deed in another binds the parties, and those who claim under them by matters subsequent.	Does a recital of one deed in another bind the parties and those who claim under them by matters subsequent?	Estoppel - Memo #44 - C - CSS_59033.docx	ROSS-003278699
Paso Robles War Mem'I Hosp. Dist. v. Negley, 29 Cal. 2d 203	198H+233	The Local Hospital District Law, in imposing an ad valorem levy on all real and personal property within district, not upon basis of special benefit, imposes a "general tax" and not a "special assessment". Health and Safety Code, SS 32200-32205.	Can the Special assessments be levied on the basis of special benefit?	019098.docx	LEGALEASE-00150548-LEGALEASE-00150549
Minnesota Humane Soc. v. Minnesota Federated Humane Societies, 611 N.W.2d 587	307A+581	Although a court might sanction a party for conduct in settlement negotiations, the court cannot dismiss a case for refusal to settle.	Can a court sanction a party for conduct in settlement negotiations?	Pretrial Procedure - Memo # 8210 - C - RY_58785.docx	ROSS-003282176-ROSS-003282177
Windsor Realty & Mgt. v. Ne. Ohio Reg'I Sewer Dist., 68 N.E.3d 327	307A+624	If there is a set of facts, consistent with the plaintiff's complaint, which would allow the plaintiff to recover, the court may not grant a defendant's motion to dismiss for failure to state a claim. Rules Civ.Proc., Rule 12(B)(6).	Can a complaint be dismissed merely because doubt exists that the plaintiff will ultimately prevail?	Pretrial Procedure - Memo # 8246 - C - KBM_58818.docx	ROSS-003284838-ROSS-003284839
Ashcroft v. Iqbal, 556 U.S. 662	170A+1772	To survive motion to dismiss, complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face; claim has "facial plausibility" when plaintiff pleads factual content that allows court to draw reasonable inference that defendant is liable for misconduct alleged. Fed.Rules Civ.Proc.Rule 12(b)(6), 28 U.S.C.A.	Does only a complaint that states a plausible claim for relief survive a motion to dismiss?	Pretrial Procedure - Memo # 8325 - C - TJ_58839.docx	ROSS-003309996-ROSS-003309997
Ranjha v. BJB Properties, 2013 IL App (1st) 122155	302+48	A complaint is legally sufficient if it states a recognized claim upon which relief can be granted; a complaint that fails to meet that standard should be dismissed because there is no recourse at law for the alleged injury. S.H.A. 735 ILCS 5/2-615.	Is a complaint legally sufficient if it states a recognized claim upon which relief can be granted?	036896.docx	LEGALEASE-00150090-LEGALEASE-00150091
Hotel & Motel Holdings v. BJC Enterprises, 414 S.C. 635	307A+622	The complaint should not be dismissed for failure to state a claim merely because the court doubts the plaintiff will prevail in the action. Rules Civ.Proc., Rule 12(b)(6).	Can a court dismiss a complaint for failure to state a claim merely because it doubts the plaintiff will prevail?	037001.docx	LEGALEASE-00150361-LEGALEASE-00150362
Avery Contracting v. Niehaus, 492 S.W.3d 159	307A+622	Motion to dismiss for failure to state a claim tests the adequacy of a plaintiff's petition.	Does a motion to dismiss for failure to state a claim test the adequacy of a plaintiff's petition?	Pretrial Procedure - Memo # 8413 - C - KS_58903.docx	ROSS-003292492-ROSS-003292493

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
People ex rel. Griffin v. City of Brooklyn, 4 N.Y. 419	371+2001	Taxation exacts money from individuals as their share of a public burden, and the taxpayer receives, or is supposed to receive, just compensation in the benefits conferred by government and in the proper application of the tax.	What does taxpayers receive in return for paying taxes?	Taxation - Memo # 868 - C - JL_59069.docx	ROSS-003285719-ROSS-003285720
Dockeray v. Carnival Corp., 724 F. Supp. 2d 1216	25T+182(2)	Simply failing to assert in an answer arbitration as an affirmative defense does not constitute default of a right to arbitration.	Does failing to assert arbitration as an affirmative defense constitute default of the right to arbitration?	007934.docx	LEGALEASE-00151397-LEGALEASE-00151398
Lawson v. Fin. Am. Private Brands, 537 S.W.2d 483	83E+813	Negotiation of commercial paper not payable to bearer takes effect only when endorsement is made and until that time there is no presumption that a transferee is the owner. V.T.C.A., Bus. & C. SS 1.201(20), 3.201(c), 3.301, 3.307.	Will Negotiation of Commercial paper takes place when an indorsement is made?	009417.docx	LEGALEASE-00151094-LEGALEASE-00151095
State v. Skorpen, 57 Wash. App. 144	83E+503	Forged check does not by itself constitute evidence of a debt; extrinsic evidence is necessary to show that payee in good faith paid the check or took it for value. West's RCWA 9A.56.010(12)(b)(i), 62A.3-404(1).	Does a forged signature constitute evidence of a debt?	009710.docx	LEGALEASE-00151250-LEGALEASE-00151251
Rosa v. Deutsche Bank Nat. Tr. Co., 191 So. 3d 987	266+1749	In a mortgage foreclosure action, where the plaintiff's status as holder relies on a blank indorsement, the plaintiff must establish that it had possession of the original note, indorsed in blank, when the complaint was filed.	When is it necessary for a plaintiff to establish possession of an original note?	Bills and Notes- Memo 1079- ANM_59396.docx	ROSS-003312045-ROSS-003312046
Calvo v. U.S. Bank Nat. Ass'n, 181 So. 3d 562	266+1749	Where the plaintiff's status as holder of promissory note in a foreclosure action relies on a blank indorsement, the plaintiff must establish that it had possession of the original note, indorsed in blank, when the complaint was filed.	When is it necessary for a plaintiff to establish possession of an original note?	010025.docx	LEGALEASE-00151331-LEGALEASE-00151332
Hopple v. Cleveland Disc. Co., 25 Ohio App. 138	83E+481	Bona fide purchaser of instrument in nature of chose in action takes free from collateral equities, though subject to obligor's defenses against original owner.	What happens to a bonafide purchaser of instrument?	010727.docx	LEGALEASE-00151108-LEGALEASE-00151109
Sterling & Snapp v. Bender, 7 Ark. 201	83E+426	A bill or note indorsed in blank is transferable by delivery only, and so long as the indorsement continues in blank, it makes the bill or note in effect payable to bearer.	To whom is the note in effect payable when the indorsement continues in blank?	010805.docx	LEGALEASE-00151280-LEGALEASE-00151281
Fed. Deposit Ins. Corp. v. Nobles, 901 F.2d 477	195+28	Guaranty that was separate and apart from promissory note was not "negotiable" instrument, and thus, did not fall within scope of Uniform Commercial Code but, rather, was governed by general contract law. U.C.C. S 1-101 et seq.	"Should a guarantee be a part of the promissory note, to be considered as a negotiable instrument?"	010806.docx	LEGALEASE-00151308-LEGALEASE-00151309
Derico v. Duncan, 410 So. 2d 27	172H+114	Contracts made in violation of requirements of Mini-Code regarding consumer finance are null, void and unenforceable as matter of public policy. Code 1975, S 5-19-1 et seq.	Are contracts made in violation of mini-code requirements null and void?	Consumer Credit - Memo 104-IS_59227.docx	ROSS-003294765
Travellers Int'l, A.G. v. Trans World Airlines, 41 F.3d 1570	95+168	Under New York law, implied covenant of good faith and fair dealing inheres in every contract.	Is there an implied covenant of good faith in every contract?	Consumer Credit - Memo 106-IS_59229.docx	ROSS-003321940
Auguston v. Spry, 282 A.D.2d 489	302+20	Causes of action alleging breach of contract and unjust enrichment may be pleaded alternatively. McKinney's CPLR 3014.	Can breach of contract and unjust enrichment be pleaded in the alternative?	023668.docx	LEGALEASE-00151319-LEGALEASE-00151320
New Bar Partnership v. Martin, 729 S.E.2d 675	307A+561.1	A complaint may be properly dismissed for absence of law to support a claim, absence of facts sufficient to make a good claim, or the disclosure of some fact that necessarily defeats the claim. Rules Civ.Proc., Rule 12(b)(6).	On what basis can a complaint be properly dismissed?	037408.docx	LEGALEASE-00151294-LEGALEASE-00151295

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Airline Support v. ASM Capital II, 279 P.3d 599	308+99	Supreme Court considers three factors when evaluating apparent authority: (1) the manifestations of the principal to the third party, (2) the third party's reliance on the principal's manifestations, and (3) the reasonableness of the third party's interpretation of the principal's manifestations and the reasonableness of the third party's reliance. (Per Carpeneti, C.J., with one justice concurring and two justices concurring in the result, and one justice not participating.) Restatement (Second) of Agency S 8 comment.	Can apparent authority be the result of principals manifestation?	Principal and Agent - Memo 172 - KC_59454.docx	ROSS-003296609-ROSS-003296610
Ferenc v. Brenner, 927 F. Supp. 2d 537	308+127.1	Under both Illinois and California law, an agent acting within the scope of his agency is entitled to invoke an arbitration agreement entered into by his principal.	Can an agent invoke an arbitration agreement?	Principal and Agent - Memo 90 - KC_59288.docx	ROSS-003308334-ROSS-003308335
White Springs Agric. Chemicals v. Glawson Investments Corp., 660 F.3d 1277	25T+329	Arbitration panel's incorrect legal conclusion is not grounds under Federal Arbitration Act (FAA) for vacating or modifying award. 9 U.S.C.A. SS 10, 11.	Can an arbitration panel's incorrect legal conclusion be considered grounds for vacating or modifying the arbitral award?	Alternative Dispute Resolution - Memo 815 - RK_59500.docx	ROSS-003293403-ROSS-003293404
Iowa Grain Co. v. Brown, 171 F.3d 504	25T+182(2)	Uncertainty about the right to arbitrate is a factor that tends to undermine a finding that a party has waived its right to arbitration by the mere filing of a court action.	Is uncertainty about the right to arbitration a factor that tends to undermine a finding of waiver?	008029.docx	LEGALEASE-00151504-LEGALEASE-00151505
United States v. Miller, 229 F.2d 839	108H+15	Matters of attachment, execution, and the like are to be determined by law of the forum, not by the law of the place where judgment was rendered or where a debt was contracted. Fed.Rules Civ.Proc. rule 69(a), 28 U.S.C.A.	Are matters of attachment and execution to be determined by the law of the forum?	014087.docx	LEGALEASE-00151544-LEGALEASE-00151545
Bolin Farms v. Am. Cotton Shippers Ass'n, 370 F. Supp. 1353	95+2	Codal article relating to governing law for public and private written instruments has developed general rule that validity and construction of contract is determined by lex loci contractus and the remedy according to lex fori. LSA-C.C. art. 10.	Is the remedy of a contract determined by lex fori?	009912.docx	LEGALEASE-00151608-LEGALEASE-00151609
In re Ben Weiss Co., 271 F.2d 234	21+2	A corporation can act only through its duly authorized officers and agents, and affidavits on behalf of corporations may be made by any duly authorized officers or agents having knowledge of facts verified, even though statute regulating making of affidavit makes no provision or exception in favor of corporations.	Who is authorized to make affidavits on behalf of corporations?	Affidavits - Memo 38 - _1P8OFa0tJ0JqHGcm-3EvSn6i35Wj_amm2.docx	ROSS-000000172-ROSS-000000173
U.S. v. Peralta-Sanchez, 847 F.3d 1124	92+4437	The fact that aliens are protected by the Due Process Clause does not mean that all aliens are entitled to enjoy all the advantages of citizenship or that all aliens must be placed in a single homogenous legal classification; the class of aliens is itself a heterogenous multitude of persons with a wide-ranging variety of ties to this country. U.S. Const. Amend. 5.	Is the class of aliens a heterogenous multitude of persons with a wide-ranging variety of ties to this country?	"Aliens, Immigration and Citizenship - Memo 37 - RK_60124.docx"	ROSS-003280959-ROSS-003280960
Charles Nelson Co. v. Morton, 106 Cal. App. 144	8.30E+05	It is duty of courts, in construing the negotiable instruments law, to have in mind purpose of securing uniformity in law of commercial paper.	Should Negotiable Instruments law be construed so as to secure uniformity?	010053.docx	LEGALEASE-00152414-LEGALEASE-00152415
In re Nosek, 386 B.R. 374	51+2187	Purpose of Rule 9011 is to deter baseless filings in bankruptcy and thus avoid the expenditure of unnecessary resources by imposing sanctions on those found to have violated it. Fed.Rules Bankr.Proc.Rule 9011, 11 U.S.C.A.	What was the aim of legislation behind Rule 9011?	010279.docx	LEGALEASE-00152347-LEGALEASE-00152348

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Stone v. Mehlberg, 728 F. Supp. 1341	83E+524	A mortgage which was not payable to order or bearer was not a negotiable instrument and thus assignees of the mortgagee were not protected by the UCC's holder in due course doctrine. U.C.C. S 3-101 et seq.	"Is mortgage a negotiable instrument, when it is not payable to the bearer?"	010811.docx	LEGALEASE-00151869- LEGALEASE-00151870
In re Ferrell, 539 F.3d 1186	172H+1322	To effectuate purpose of Truth in Lending Act (TILA), court construes TILA's provisions liberally in favor of the consumer. Truth in Lending Act, S 102(a), 15 U.S.C.A. S 1601(a).	"To effectuate the purpose of TILA, do courts construe its provisions liberally in favor of the consumer?"	013994.docx	LEGALEASE-00152607- LEGALEASE-00152608
Fin. Freedom Acquisition v. Standard Bank & Tr. Co., 2014 IL App (1st) 120982	172H+1555	The right to rescind a loan transaction under the Truth in Lending Act (TILA) may be exercised only by the obligor, that is, the person to whom credit is extended; thus, an individual who is not named on the promissory note executed by his or her spouse is not an obligor, and does not have a right to rescind. Truth in Lending Act, S 125(a), 15 U.S.C.A. S 1635(a).	Does an individual who is not an obligor have a right to rescind?	013996.docx	LEGALEASE-00152609- LEGALEASE-00152610
Rodgers v. Harper & Moore, 170 Ala. 647	200+181	One placing objects within a highway calculated to frighten horses of ordinary gentleness is liable for injuries to a person caused by the frightening of a horse of ordinary gentleness.	Will placing objects in the highway to frighten horses make one liable?	018778.docx	LEGALEASE-00152531- LEGALEASE-00152533
Kanerva v. Weems, 2014 IL 115811	307A+683	In ruling on a motion to dismiss which challenges the legal sufficiency of a complaint, a court must accept as true all well-pleaded facts in the complaint, as well as any reasonable inferences that may arise from them; the critical inquiry is whether the allegations of the complaint, when construed in the light most favorable to the plaintiff, are sufficient to establish a cause of action upon which relief may be granted. S.H.A. 735 ILCS 5/2-615.	"In ruling on a motion to dismiss which challenges the legal sufficiency of a complaint, should a court accept as true all well-pleaded facts in the complaint?"	037520.docx	LEGALEASE-00152087- LEGALEASE-00152088
Dani v. Miller, 2016 OK 35	307A+680	The purpose of a motion to dismiss is to test the law that governs the claim, not the underlying facts. 12 Okl.St.Ann. S 2012(B)(6).	"Is the purpose of a motion to dismiss to test the law that governs the claim in litigation, and not the underlying facts?"	037629.docx	LEGALEASE-00152041- LEGALEASE-00152042
Bell v. Phillips, 465 S.W.3d 544	307A+680	A petition does not have to plead operative or evidentiary facts, so it will survive dismissal if it pleads ultimate facts and not conclusions.	"Does a petition not have to plead operative or evidentiary facts, so it will survive dismissal if it pleads ultimate facts and not conclusions?"	Pretrial Procedure - Memo # 8713 - C - NE_59749.docx	ROSS-003296737-ROSS- 003296738
Chubb Grp. Ins. Companies v. Carrizalez, 375 Ill. App. 3d 537	307A+680	Dismissal is appropriate where the record establishes that no genuine issue of material fact exists.	Is dismissal appropriate where the record establishes that no genuine issue of material fact exists?	Pretrial Procedure - Memo # 8763 - C - NS_59764.docx	ROSS-003293103-ROSS- 003293104
Young v. Medlantic Lab. P'ship, 125 Md. App. 299	307A+680	It is clearly inappropriate for judge to make finding of fact in context of motion to dismiss.	Is it clearly inappropriate for a judge to make finding of fact in context of motion to dismiss?	037774.docx	LEGALEASE-00151921- LEGALEASE-00151922
Valley Peat & Humus v. Sunnylands, 398 Pa. Super. 400	307A+581	Granting of non pros judgment is founded upon equitable doctrine of laches.	Is granting of non pros judgment founded upon equitable doctrine of laches?	038331.docx	LEGALEASE-00152688- LEGALEASE-00152689
Swindell v. Latham, 145 N.C. 144	308+92(1)	An agent can only contract for his principal within the limits of his authority, and one dealing with an agent with limited powers must generally inquire as to the extent of his authority.	Can an agent only contract for his principal within the limit of his authority?	041501.docx	LEGALEASE-00152275- LEGALEASE-00152276
Swindell v. Latham, 145 N.C. 144	308+92(1)	An agent can only contract for his principal within the limits of his authority, and one dealing with an agent with limited powers must generally inquire as to the extent of his authority.	"While dealing with an agent, is one required to inquire the extent of his authority?"	041503.docx	LEGALEASE-00152283- LEGALEASE-00152284

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Total Control v. Danaher Corp., 359 F. Supp. 2d 380	308+89(3)	To recover exemplary damages under the Illinois Sales Representative Act (ISRA), a plaintiff must show that a principal failed to provide timely payment of commissions to a sales representative. S.H.A. 820 ILCS 120.	How can a sales representative claim unpaid commissions?	Principal and Agent - Memo 54 - KC_60261.docx	ROSS-003307373-ROSS-003307374
Mitchell v. Teague, 233 S.W. 1040	308+88	Where an agent on his own account undertakes to delegate to a third party the performance of a duty which he owes his principal, the subagent must look for his compensation to his immediate employer, and not to the principal.	Who pays commission to sub-agent employed by an agent?	042081.docx	LEGALEASE-00152255-LEGALEASE-00152256
Carlson v. Carlson, 363 N.W.2d 803	308+69(2)	Agent cannot profit from subject of agency without principal's consent, freely given after full disclosure of any facts that might influence principal's judgment.	Can an agent claim his compensation from the subject of the principal?	042096.docx	LEGALEASE-00152263-LEGALEASE-00152264
Cruse v. O'Quinn, 273 S.W.3d 766	21+9	An objection that statements in an affidavit are conclusory is one that relates to a defect in substance, and so may be raised for the first time on appeal.	Are conclusory statements defects of substance in an affidavit?	Affidavits - Memo 62 - _1CVTIH0ZY0Bsw7804tfq B401JkSNBIRbx.docx	ROSS-000000221-ROSS-000000223
Pamar Enterprises v. Huntington Banks of Mich., 228 Mich. App. 727	8.30E+207	Instrument made payable to two or more persons not alternatively is payable to all of them and may be negotiated, discharged, or enforced only by all of them. M.C.L.A. S 440.3110(4).	Can an instrument made payable to two or more persons not alternatively be negotiated by all of them?	009889.docx	LEGALEASE-00153629-LEGALEASE-00153630
Warner v. Beardsley, 8 Wend. 194	83E+462	To discharge an indorser on the ground of the omission of the creditor to proceed against the principal debtor when requested so to do, it must appear that the principal was solvent at the time of the request, within the jurisdiction of the state in which the suit against the surety is instituted, and that the creditor, without any reasonable excuse, neglected or refused to proceed until the principal debtor became insolvent and unable to pay.	Is it necessary for the surety to show that the principal was solvent at the time he requested the creditor to proceed and collect the debt?	Bills and Notes - Memo 923 - RK.docx	LEGALEASE-00042639-LEGALEASE-00042641
Maye v. University of Minnesota, 615 N.W.2d 383	141E+1090	State university is part of the executive branch of state government, and as such, its decisions are given deference by Court of Appeals under the principle of separation of powers.	Is a public university considered a part of the executive branch of government?	Education - Memo #114 - C - ATS_60321.docx	ROSS-003281680-ROSS-003281681
Dagrosa v. Calabro, 105 N.Y.S.2d 178	156+29	Purchaser who accepts deed which recognizes easement over realty is estopped by such acceptance from denying existence of such easement.	Is a purchaser who accepts a deed which recognizes an easement over the realty estopped by such acceptance from denying existence of such easement?	018025.docx	LEGALEASE-00152894-LEGALEASE-00152895
Aspenhof Corp. v. State Tax Comm'n of Missouri, 789 S.W.2d 867	371+2516	Fact that real property where recreational facilities were located was losing money was not relevant factor to consider in using replacement cost less depreciation method of assessing value of property for tax purposes.	What are the three factors that consist the replacement cost less depreciation method to calculate true value in money when assessing property?	018334.docx	LEGALEASE-00153529-LEGALEASE-00153530
State ex rel. Berkshire v. City of Logansport, 928 N.E.2d 587	307A+622	A motion to dismiss for failure to state a claim upon which relief can be granted tests the legal sufficiency of a claim, not the facts supporting it. Trial Procedure Rule 12(B)(6).	When can a motion to dismiss for failure to state a claim upon which relief can be granted be treated as a motion for summary judgment?	037923.docx	LEGALEASE-00153259-LEGALEASE-00153260

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Grove Isle Ass'n v. Grove Isle Assocs., LLLP, 137 So. 3d 1081	241+180(7)	Date of accrual of condominium association's claims for declaratory relief invalidating certain provisions of the declaration of condominium, including those requiring condominium unit owners to pay for maintenance of facilities outside the condominium and limiting the association's right to amend the declaration, could not be determined from the four corners of the complaint, and thus trial court could not dismiss the claims on the basis of the five-year statute of limitations, even if claims accrued when developer turned over control of the condominium to association; complaint did not allege when developer turned over control. West's F.S.A. SS 95.031(1), 95.11, 718.124.	"In determining the merits of a motion to dismiss, should the trial court limit itself to the four corners of the complaint?"	038009.docx	LEGALEASE-00152822-LEGALEASE-00152823
Plengemeier v. Thermadyne Indus., 409 S.W.3d 395	241+180(7)	A motion to dismiss is the proper motion for attacking a petition on the ground it is barred by the statute of limitations, especially where the expiration of the limitation appears on the face of the petition; the trial court may not dismiss the petition unless it is clearly established on the petition's face and without exception that the cause of action is time-barred.	"In ruling on a motion to dismiss, including one based on the bar of a statute of limitations, is the trial court obliged to construe the petition liberally and give the pleadings their broadest intendment?"	Pretrial Procedure - Memo # 8939 - C - TM_60392.docx	ROSS-003280539-ROSS-003280540
Wells v. Endicott, 2013 IL App (5th) 110570	307A+624	Dismissal based on the pleadings is appropriate only where, viewing the allegations in the light most favorable to the plaintiff, it is clear that no set of facts can be proved under the pleadings that will entitle the plaintiff to relief. S.H.A. 735 ILCS 5/2-615.	When is a dismissal based on the pleadings appropriate?	038021.docx	LEGALEASE-00152906-LEGALEASE-00152907
Saunders v. Tisher, 902 A.2d 830	307A+680	On a motion to dismiss, facts are not adjudicated, but rather there is an evaluation of the allegations in the complaint in relation to any cause of action that may reasonably be inferred from the complaint.	"When the trial court acts on a motion to dismiss for failure to state a claim upon which relief can be granted, are facts not adjudicated?"	038095.docx	LEGALEASE-00153392-LEGALEASE-00153393
Mayor of Savanna v. Hartridge, 8 Ga. 23	371+2001	Taxation, in reference to the subject matter, is divided by writers on political economy, as well as the tax laws of all governments, into three classes-capitation, property and income; and where one or more is treated of or acted upon, the other is never intended.	What are the three classes of taxation?	046047.docx	LEGALEASE-00153398-LEGALEASE-00153399
Perez v. Tomberlin, 86 Ariz. 66	228+185.2(4)	Plaintiff's affidavit, filed in response to defendant's motion for summary judgment, must be affirmative and present sufficient materials to show that there is a triable issue of material fact. A.R.S. Rules of Civil Procedure, rule 30(f).	Is it fundamental that the affidavit present sufficient materials to show that there is a triable issue of material fact?	Affidavits - Memo 81 - SNJ_62006.docx	ROSS-003297949-ROSS-003297950
In re Miller, 114 F. 838	8.30E+41	Under Nevada law, casino marker is type of check, drawn on customer's bank account designated in the instrument, and is subject to legal regime governing checks.	Is a casino marker a type of check?	009034.docx	LEGALEASE-00154452-LEGALEASE-00154453
White-Wilson-Drew Co. v. Egelhoff, 96 Ark. 105	83E+528	Where a creditor received a note payable at a future date in payment of a past-due debt, the extension of the time to pay was a sufficient consideration to make the creditor a holder for value.	Will extension of the time of payment amounts be sufficient consideration to make the debtor a holder for value?	009787.docx	LEGALEASE-00154649-LEGALEASE-00154650
Rubio v. Capital One Bank, 613 F.3d 1195	172H+1527	In applying Truth in Lending Act (TILA) and its implementing regulations, a court requires absolute compliance by creditors, and even technical or minor violations of the TILA impose liability on the creditor. Truth in Lending Act, S 127(c)(1)(A)(i)(I), 15 U.S.C.A. S 1637(c)(1)(A)(i)(I).	"Under TILA, is absolute compliance by creditors required?"	Consumer Credit - Memo 66 - JK_60821.docx	ROSS-003278941-ROSS-003278942

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Frazier-Hampton v. Hesterly, 89 Ark. App. 211	200+6(1)	Public road does not have to be established by formal order of county court; instead, prescriptive right-of-way can be established by county working road for period in excess of seven years.	How can a public road be established?	06611.docx	LEGALEASE-00096613-LEGALEASE-00096614
M Series Rebuild v. Town of Mount Pleasant, 222 N.C. App. 59	307A+622	The purpose of a motion to dismiss is to test law of a claim, not to resolve evidentiary conflicts. Rules Civ.Proc., Rule 12, West's N.C.G.S.A. S 1A-1.	"Is the purpose of a motion to dismiss to test a law of a claim, not to resolve evidentiary conflicts?"	038576.docx	LEGALEASE-00153992-LEGALEASE-00153993
Williams v. Gaffin Indus. Servs., 88 So. 3d 1027	307A+681	Trial court erred in dismissing employee's estate's complaint, alleging intentional harm, based on the doctrine of election of remedies, available under workers' compensation law, because court considered disputed matters outside the four corners of the complaint; facts relied upon by employer in support of its election of remedies defense did not appear on the face of the complaint or in any attachments to the complaint, and instead, they were supplied by employer through various documents and an affidavit filed in support of its motion to dismiss.	"If the court is required to consider matters outside the four corners of the complaint, is the cause not subject to dismissal on the basis of the affirmative defense?"	038655.docx	LEGALEASE-00153899-LEGALEASE-00153900
Succession of Knox, 579 So. 2d 1164	307A+581	Suit for nullity of judgment of possession is not "succession proceeding," and thus is subject to five-year abandonment rule. LSA-C.C.P. art. 561, subd. A.	"Is suit for nullity of judgment of possession, ""succession proceeding""?"	Pretrial Procedure - Memo # 9453 - C - TM_60946.docx	ROSS-003278354-ROSS-003278355
Flanigan v. City of Leavenworth, 232 Kan. 522	307A+581	What constitutes such failure to prosecute as to warrant dismissal must be determined by circumstances of each particular case. Rules Civ.Proc., K.S.A. 60-241(b).	Should failure to prosecute as to warrant dismissal be determined by circumstances of each particular case?	038853.docx	LEGALEASE-00154483-LEGALEASE-00154484
Fisser v. Int'l Bank, 164 F. Supp. 826	308+183(1)	Agent of an absent owner of cargo may assert in his own name his principal's right of action.	Can an agent of an absent cargo owner assert in his own his principals right of action?	041626.docx	LEGALEASE-00154601-LEGALEASE-00154602
Sherzer v. Homestar Mortg. Servs., 849 F. Supp. 2d 501	172H+1556	Mortgagors were required to file legal action to enforce their right to rescind mortgage loan under Truth in Lending Act (TILA) within statutory three-year period or right would be completely extinguished, regardless of whether mortgagors filed their rescission claim within one year of sending their notice of rescission to mortgage lender. Truth in Lending Act, S 125(f), 15 U.S.C.A. S 1635(f).	What is the time period for rescission under 1635(f)?	Consumer Credit - Memo 195 - RK_61857.docx	ROSS-003305471-ROSS-003305472
Egan v. Moore, 36 Misc. 2d 967	141E+1015	The state university is an integral part of the government of the state and as such is subject to immediate control of the board of trustees. Education Law, SS 101, 201, 207, 352, 354, 355; Laws 1962, c. 930; Const. art. 5, S 4; art. 11, S 2.	Is a university subject to the control of the board of regents?	06604.docx	LEGALEASE-00096623-LEGALEASE-00096624
Marsden v. Encompass Ins. Co., 374 N.J. Super. 241	156+52(1)	Estoppel is an equitable doctrine, founded in the fundamental duty of fair dealing imposed by law.	Is estoppel founded in the fundamental duty of fair dealing imposed by law?	Estoppel - Memo #108 - C - CSS_61675.docx	ROSS-003296171-ROSS-003296172
Leong v. Potter, 347 F.3d 1117	156+52(1)	Doctrine of "equitable estoppel" focuses on defendant's wrongful actions preventing plaintiff from asserting his claim.	Does estoppel focus on the defendant's wrongful actions preventing the plaintiff from asserting his claim?	Estoppel - Memo #113 - C - CSS_61681.docx	ROSS-003280886-ROSS-003280887
Manias v. Yeck, 11 Ill. 2d 512	253+455	Where husband had made agreement to convey portion of land held in joint tenancy with wife, who was not party to such agreement, joint tenancy was thereby severed and tenancy in common resulted and husband's interest was subject to agreement even after his death.	"Where one joint tenant makes an agreement to convey, will the joint tenancy be severed resulting in a tenancy in common?"	Exchange of Property - Memo 16 - AM_61346.docx	ROSS-003297855-ROSS-003297856

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Stamato v. Agamie, 24 N.J. 309	322H+644	Equity deems time provisions in land contract to be formal rather than essential, unless circumstances or express language indicate otherwise.	Is time the essence of land contracts?	Exchange of Property - Memo 8 - AM.docx	LEGALEASE-00044887-LEGALEASE-00044888
Annett v. Am. Honda Motor Co., 548 N.W.2d 798	307A+581	Dismissal of an action for failure to prosecute is an extreme remedy and should be used only when there is an "unreasonable and unexplained delay," which is an omission to do something which the party might do and might reasonably be expected to do towards vindication or enforcement of his rights. SDCL 15-11-11.	"Should dismissal of an action for failure to prosecute be used only when there is an ""unreasonable and unexplained delay""?"	Pretrial Procedure - Memo # 10008 - C - KS_61558.docx	ROSS-003278535-ROSS-003278536
State ex rel. Missouri Highway & Transp. Comm'n v. Moulder, 726 S.W.2d 812	307A+581	Law disfavors dismissal of cases because of failure to prosecute as it favors trial on merits.	Does law disfavor dismissal of cases because of failure to prosecute as it favors trial on merits?	039052.docx	LEGALEASE-00154946-LEGALEASE-00154947
Chevron Oil Co. v. Traigle, 436 So. 2d 530	307A+581	Defendant's submission for decision of already abandoned case precludes him from raising claim of abandonment. LSA-C.C.P. art. 561.	Does defendant's submission for decision of already abandoned case preclude him from raising claim of abandonment?	039089.docx	LEGALEASE-00155199-LEGALEASE-00155200
Greene v. Tri-Cty. Cmty. Sch. Dist., 315 N.W.2d 779	307A+581	It is in public interest that cases not tried or settled within reasonable time be dismissed. Rules Civ.Proc., Rules 215.1, 252.	Is it in public interest that cases not tried or settled within reasonable time be dismissed?	039100.docx	LEGALEASE-00155271-LEGALEASE-00155272
Landfield v. Sherman, 201 So. 2d 819	307A+581	Primary purpose of statute providing for dismissal of an action for want of prosecution upon inaction for a year is to promote the expeditious disposition of litigation. F.S.A. S 45.19.	What is the primary purpose of rule governing dismissal for failure to prosecute?	039167.docx	LEGALEASE-00155360-LEGALEASE-00155361
Polowick v. Meredith Const. Co., 29 Ill. App. 3d 1092	307A+581	Complaint should not be dismissed for want of prosecution unless the plaintiff has been guilty of inexcusable delay.	Should a complaint be dismissed for want of prosecution unless the plaintiff has been guilty of inexcusable delay?	Pretrial Procedure - Memo # 9709 - C - VP_61979.docx	ROSS-003295203-ROSS-003295204
Graham v. Mut. Life Ins. Co. of New York, 176 N.C. 313	308+92(1)	Where one deals with an agent, it behooves him to ascertain correctly the extent of the agent's authority and power to contract.	Does it behoove one when dealing with an agent to ascertain correctly the extent of his authority?	041655.docx	LEGALEASE-00155708-LEGALEASE-00155709
Bickel Coal Co. v. Louisville Tire Co., 228 Ky. 239	308+19	Person seeking damages from one for another's acts must establish denied relation of master and servant or principal and agent.	Is one responsible for another only when the relation of principal and agent exists?	041666.docx	LEGALEASE-00155396-LEGALEASE-00155397
City of Scranton v. O'Malley Mfg. Co., 341 Pa. 200	371+2001	Liability to pay taxes arises from no contractual relation between the taxable and the state, and cannot be enforced by common-law proceedings unless a statute so provides.	Can liability to pay taxes be enforced by common law proceedings?	046085.docx	LEGALEASE-00154996-LEGALEASE-00154997
Ford Motor Co. v. Linnane, 102 Mont. 325	371+2001	Taxes are levied upon persons and not upon property, and, while strictly speaking property which person owns is used to determine amount of tax he shall pay, it is person who pays the tax, and person is liable, and property is security for payment.	Are all taxes levied upon persons or property?	046089.docx	LEGALEASE-00155042-LEGALEASE-00155043
McInness v. Wilson Printing Co., 258 Ill. App. 161	413+101	The extrahazardous employments specified in Workmen's Compensation Act, have reference only to right to compensation under act, and do not fix standard for any other purpose. S.H.A. ch. 48, S 138 et seq.	"Does the Compensation Act define employment by reference only to the right to compensation under the act, and not attempt to fix a standard for any other purpose?"	048640.docx	LEGALEASE-00155552-LEGALEASE-00155553
Renville State Bank v. Kinsberg, 40 S.D. 191	21+9	Written declaration, properly sworn to, may constitute an affidavit, though in form of ordinary pleading.	Can a written declaration in the form of an ordinary pleading constitute an affidavit?	Affidavits - Memo 80 - _1cdbZBGR1LZnQ4OPN8myz_nn_3XerjjsO.docx	ROSS-000000254-ROSS-000000255

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Eastview Estates II, 713 F.2d 443	156+52(1)	In California, under appropriate circumstances, doctrine of equitable estoppel can prevent a party from asserting statute of frauds; estoppel will normally be invoked to prevent unconscionable injury or unjust enrichment. West's Ann.Cal.Civ.Code S 1624, subd. 5.	Can equitable estoppel prevent a party from asserting the Statute of Frauds?	017799.docx	LEGALEASE-00156272- LEGALEASE-00156273
State v. Deines, 268 Kan. 432	200+158	Where there is an obstruction across a public right-of-way which obstructs the travel of an individual, the obstruction is a nuisance per se and the affected individual may remove the obstruction by way of abatement.	Can an individual remove the obstruction by way of abatement?	019200.docx	LEGALEASE-00156246- LEGALEASE-00156247
Twp. of Hutchinson v. Filk, 44 Minn. 536	200+159(2)	While indictment is the common-law remedy for the abatement of a public nuisance, a court of equity will take jurisdiction of a civil action to abate and enjoin the maintenance of an obstruction to a highway which is a public nuisance.	Does equity have the jurisdiction to abate public nuisances?	019201.docx	LEGALEASE-00156250- LEGALEASE-00156251
Correa v. Orient-Express Hotels, 84 A.D.3d 651	307A+682.1	Neither affidavit nor deposition testimony offered by defendant constituted the type of documentary evidence that could be considered on motion to dismiss based on defense founded upon documentary evidence. McKinney's CPLR 3211(a)(1).	Is an affidavit considered as a documentary evidence?	024553.docx	LEGALEASE-00156102- LEGALEASE-00156103
Millsaps v. Orlando Wrecker, 634 So. 2d 680	307A+694	Order dismissing cause for lack of indispensable party is not an adjudication on the merits and, thus, should be without prejudice.	"Is an order dismissing a pleading for lack of an indispensable party not a merits adjudication, and should thus be without prejudice?"	024677.docx	LEGALEASE-00155940- LEGALEASE-00155941
Citibank (S. Dakota), N.A. v. Martin, 11 Misc. 3d 219	307A+690	A lack of standing renders the litigation a nullity, subject to dismissal without prejudice.	"Does a lack of standing render the litigation a nullity, subject to dismissal without prejudice?"	Pretrial Procedure - Memo # 10364 - C - NS_62089.docx	ROSS-003319568
Ray & Sons Masonry Contractors v. U.S. Fid. & Guar. Co., 353 Ark. 201	302+308	Pleading requirement, that any written instrument or document upon which a claim or defense is based shall be attached as an exhibit to the pleading raising the claim or defense, is mandatory. Rules Civ.Proc., Rule 10(d).	"If a claim is based on a written document, should the document itself be attached to the pleading as an exhibit?"	024762.docx	LEGALEASE-00156218- LEGALEASE-00156219
Blackgold Realty Corp. v. Milne, 119 A.D.2d 512	307A+679	On motion to dismiss pleading for insufficiency after extrinsic evidence is introduced, allegations are not deemed true, rather, inquiry is whether pleader has cause of action, not whether he has properly stated one, and motion should be granted where essential facts have been negated beyond substantial question by affidavits and evidence submitted.	"Where the court has considered extrinsic evidence on a motion to dismiss, should the motion only be granted where the essential facts have been negated?"	039468.docx	LEGALEASE-00156180- LEGALEASE-00156181
Wilson v. Gen. Motors Corp., 298 N.Y. 468	413+101	The Workmen's Compensation Law should be broadly construed to embrace all activities which can in any reasonable sense be included within its coverage. Workmen's Compensation Law, S 1 et seq.	Has workmens compensation been broadly construed to embrace all activities?	048461.docx	LEGALEASE-00156018- LEGALEASE-00156019
BHA Investments v. State, 138 Idaho 348	371+2002	Fees and taxes are generally distinguished in that fees are for purpose of regulation whereas taxes are solely for purpose of raising revenue.	Are fees and taxes distinguished in that fees are for the purpose of regulation and taxes are solely for the purpose of raising revenue?	044590.docx	LEGALEASE-00156677- LEGALEASE-00156678
Kimball v. Whitney, 15 Ind. 280	83E+481	A promissory note might, under the old system of practice, be equitably assigned, without indorsement, so as to vest the equitable interest in the assignee, and entitle him to proceed upon it in equity; and by our present statute he can sue in his own name.	Can an assignee of a note sue in his own name?	009098.docx	LEGALEASE-00157155- LEGALEASE-00157156

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Connor & Walker v. Donnell, Lawson & Co., 55 Tex. 167	8.30E+10	An accommodation note, wherever dated, signed or indorsed, takes effect, and in law is regarded as made, when and where it is actually delivered and negotiated.	Where is an accommodation note regarded as made?	010929.docx	LEGALEASE-00157940-LEGALEASE-00157941
McAllister Enterprises v. McAllister Hotel, 219 So. 2d 114	156+52(4)	Doctrine of equitable estoppel will be applied only where to refuse its application would be virtually to sanction perpetration of fraud.	Does estoppel only apply where to refuse its application would be virtually to sanction the perpetration of fraud?	017878.docx	LEGALEASE-00156999-LEGALEASE-00157000
Teledyne Indus. v. N.L.R.B., 911 F.2d 1214	156+52(5)	Judicial estoppel is applied with caution to avoid impinging on truth-seeking function of court.	Is judicial estoppel applied with caution to avoid impinging on the truth-seeking function of the court?	Estoppel - Memo #194 - C - CSS_63216.docx	ROSS-003284612-ROSS-003284613
State ex rel. Martin v. Dane Cty. Mut. Ben. Ass'n, 247 Wis. 220	217+1002	In determining whether business for which a corporation was formed and actually carried on constituted a form of insurance, court must examine all the facts and determine real nature and substance of activities carried on by the corporation. St.1931, S 180.01 et seq.; St.1943, S 206.55.	Can the substance of an insurance contract be changed by giving it another name?	019544.docx	LEGALEASE-00157379-LEGALEASE-00157380
Wolfpack Enterprises v. Arrington, 272 Ga. App. 175	307A+690	Dismissal with prejudice based solely on want of prosecution or failure to appear is improper. West's Ga.Code Ann. S 9-11-41(b, c); Uniform Superior Court Rule 14.	Is a dismissal with prejudice based solely on want of prosecution or failure to appear improper?	025051.docx	LEGALEASE-00156717-LEGALEASE-00156718
Luna v. United Parcel Serv., 2003 WL 139592	307A+693.1	Dismissal for want of prosecution does not preclude the filing of another suit; therefore, dismissing a case with prejudice for want of prosecution is improper. Vernon's Ann.Texas Rules Civ.Proc., Rule 165a.	Does a dismissal for want of prosecution not preclude the filing of another suit?	Pretrial Procedure - Memo # 10553 - C - KG.docx	LEGALEASE-00046987-LEGALEASE-00046988
Luna v. United Parcel Serv., 2003 WL 139592	307A+693.1	Dismissal for want of prosecution does not preclude the filing of another suit; therefore, dismissing a case with prejudice for want of prosecution is improper. Vernon's Ann.Texas Rules Civ.Proc., Rule 165a.	Does a dismissal for want of prosecution not preclude the filing of another suit?	Pretrial Procedure - Memo # 10553 - C - KG_62450.docx	ROSS-003281321-ROSS-003281322
Crosrol Carding Developments v. Gunter & Cooke, 12 N.C. App. 448	307A+694	Dismissal for failure to join a necessary party is not dismissal on the merits and may not be with prejudice. Rules of Civil Procedure, rule 41(b), G.S. S 1A-1.	Is a dismissal for failure to join a necessary party not a dismissal on the merits and cannot be with prejudice?	025097.docx	LEGALEASE-00156861-LEGALEASE-00156862
Lewis v. City of Savannah, 336 Ga. App. 126	307A+693.1	Upon dismissal of a case, all prior orders that were entered in the case are superceded and can no longer be enforced against the parties.	"Upon dismissal of a case, are all prior orders that were entered in the case superseded and can no longer be enforced against the parties?"	025143.docx	LEGALEASE-00157137-LEGALEASE-00157138
Hous. Auth. of St. Louis Cty. v. Lovejoy, 731 S.W.2d 510	307A+693.1	Involuntary dismissal of plaintiff's action, in which counterclaim has been filed, does not ordinarily operate to dismiss or to discontinue such counterclaim. V.A.M.S. S 510.170.	"Does an involuntary dismissal of a plaintiff's action, in which a counterclaim has been filed, not ordinarily operate to dismiss or to discontinue such counterclaim?"	Pretrial Procedure - Memo # 10633 - C - SJ_63242.docx	ROSS-003296685-ROSS-003296686
Polk v. Wimsatt, 689 S.W.2d 363	307A+693.1	Dismissal of suit for lack of prosecution alone does not operate as a bar to cause of action. Rules Civ.Proc., Rules 41.02, 77.02.	Does dismissal of suit for lack of prosecution alone not operate as a bar to a cause of action?	Pretrial Procedure - Memo # 10640 - C - NE_63249.docx	ROSS-003281414-ROSS-003281415
Pender v. Pender, 634 S.W.2d 244	307A+693.1	An order to dismiss terminates the litigation, the petition as well as the action, unless the decree directs a different effect.	Does an order to dismiss terminate the litigation unless the decree directs a different effect?	025251.docx	LEGALEASE-00156829-LEGALEASE-00156830
Ellis v. Crockett, 51 Haw. 45	307A+693.1	Order dismissing complaint in its entirety is judgment denying all relief to plaintiff whose complaint is being dismissed.	Is an order dismissing a complaint in its entirety a judgment denying all relief to a plaintiff whose complaint is being dismissed?	Pretrial Procedure - Memo # 10673 - C - NC_62652.docx	ROSS-003285510-ROSS-003285511
Robert & Co. Assocs. v. Covil, 113 Ga. App. 387	307A+693.1	Effect of nonsuit is to dismiss case and it puts entire case out of court, including the petition.	"Is the effect of nonsuit to dismiss a case and does it put the entire case out of court, including the petition?"	025295.docx	LEGALEASE-00156995-LEGALEASE-00156996

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Peaslee v. Michalski, 167 So. 2d 242	307A+693.1	A mere nonsuit at trial is not a final judgment and until such judgment is entered case is still pending. F.S.A. S 54.09.	Is a mere nonsuit at trial not a final judgment and until such judgment is entered will a case be still pending?	Pretrial Procedure - Memo # 10687 - C - TJ_62666.docx	ROSS-003295255
Mongeon v. Burkebile, 79 N.D. 234	307A+693.1	The words "with prejudice" appearing in motion or order for dismissal are not always conclusive against plaintiff, but their effect is determined by conditions under which they are used.	"Are the words ""with prejudice"" appearing in a motion or order for dismissal always conclusive against a plaintiff?"	025311.docx	LEGALEASE-00157034-LEGALEASE-00157035
Whitaker v. Wright, 100 Fla. 282	307A+693.1	Jurisdiction of parties is not lost by mere entry of nonsuit without final judgment.	Is the jurisdiction of parties not lost by mere entry of nonsuit without final judgment?	025320.docx	LEGALEASE-00157048-LEGALEASE-00157049
Pure Milk Co. v. Salter, 224 Ala. 417	307A+510	Plaintiff's common-law right to dismiss suit carrying with it plea of set-off or recoupment prevails in Alabama except as modified by statute (Code 1923, S 9493).	"At common law, can the plaintiff at any time dismiss his suit, carrying along with it a defendant's plea of set-off or recoupment?"	Pretrial Procedure - Memo # 11044 - C - PC_63433.docx	ROSS-003294502-ROSS-003294503
Johnson v. LeBonheur Children's Med. Ctr., 74 S.W.3d 338	231H+3045	A person serving two masters may subject both to liability for the same act if the act is within the scope of employment for both.	When can a person serving two masters subject both to liability for the same act?	Principal and Agent - Memo 413 - RK_63533.docx	ROSS-003296270-ROSS-003296271
KnightBrook Ins. Co. v. Payless Car Rental Sys., 43 F. Supp. 3d 965	308+48	Under Arizona law, "agency" is consensual and fiduciary relationship that creates fiduciary duty upon the agent to act in good faith and according to terms of agency agreement. Restatement (Third) of Agency S 1.01.	Is an agency a consensual relationship?	Principal and Agent - Memo 419 - RK_63539.docx	ROSS-003284806-ROSS-003284807
Ward v. Mgmt. Analysis Co. Employee Disability Ben. Plan, 135 F.3d 1276	308+3(1)	Whether as between parties their relationship is one of agency depends on their relations as they in fact exist under agreement or acts of parties, and the question is not governed by stipulations of the parties.	Can agency be governed by stipulation of the parties?	Principal and Agent - Memo 425 - RK_63545.docx	ROSS-003309162-ROSS-003309163
Whitco Produce Co. v. Bonanza Int'l, 154 Ga. App. 92	289+437	Generally, franchise contract under which one operates a type of business on royalty basis does not create agency or partnership relationship.	Can a franchise contract create an agency relationship?	Principal and Agent - Memo 428 - RK_63548.docx	ROSS-003279117-ROSS-003279118
Johnson v. LeBonheur Children's Med. Ctr., 74 S.W.3d 338	231H+3045	A person serving two masters may subject both to liability for the same act if the act is within the scope of employment for both.	Can a person serving two masters subject both to liability for the same act?	Principal and Agent - Memo 431 - RK_63551.docx	ROSS-003297919-ROSS-003297920
Patterson v. W. Auto Supply Co., 991 F. Supp. 1319	308+26	Under Florida law, descriptive labels utilized by parties to define their relationship do not control nature and extent of that relationship for purposes of agency law.	Can descriptive labels utilized by the parties to define their relationship control the nature and extent of that relationship?	Principal and Agent - Memo 437 - RK_63557.docx	ROSS-003322509-ROSS-003322510
Dougherty v. Bank of Am., N.A., 177 F. Supp. 3d 1230	308+48	Under California law, a principal-agent relationship exists if an agent holds the power to alter the legal relations between the principal and third persons, if an agent is a fiduciary, or if the principal has a right to control the day-to-day conduct of the agent; if, however, the principal has no control over the day-to-day operations and only has the right to dictate the end result of the agent's activities, then an independent contractor relationship exists. Cal. Civ. Code S 2295.	When does an independent contractor relationship exist?	Principal and Agent - Memo 478- PR_63269.docx	ROSS-003279872-ROSS-003279873
Pescia v. Auburn Ford-Lincoln Mercury Inc., 68 F. Supp. 2d 1269	308+1	Under Alabama law, the test for determining whether one is an agent of the defendant is whether the defendant has reserved the right of control over the means by which the work is done; stated differently, the defendant must have reserved the right to direct not only what shall be done, but also how it shall be done.	How should it to be determined whether one is an agent?	Principal and Agent - Memo 506 - KK_63284.docx	ROSS-003321017-ROSS-003321018

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
APSB Bancorp v. Thornton Grant, 26 Cal. App. 4th 926	308+3(2)	Independent contractor and agent are not mutually exclusive legal categories, and independent contractor is also an agent when it contracts to act on behalf of a principal and is subject to the principal's control except with respect to the agent's physical conduct.	Can an independent contractor also be an agent?	Principal and Agent - Memo 512 - KK_63290.docx	ROSS-003321610-ROSS-003321611
State ex rel. Ford Motor Co. v. Bacon, 63 S.W.3d 641	308+1	"Agency" is the fiduciary relation which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act. Restatement (Second) of Agency S 1.	Can an agency relationship result from manifestation of consent?	Principal and Agent - Memo 562- SB_63578.docx	ROSS-003293204-ROSS-003293205
Crist v. Ervin, 56 So. 3d 745	92+2317	A statutory filing fee is not considered an unconstitutional tax repugnant to court access if the fee is used to fund the costs of the administration of justice. West's F.S.A. Const. Art. 1, S 21.	Is filing fee an unconstitutional tax?	Taxation - Memo # 1028 - C - JL.docx	LEGALEASE-00047655-LEGALEASE-00047656
Sykes v. State, 578 N.W.2d 807	3.77E+48	Effect of a terroristic threat is not an essential element of the offense, but the victim's reaction to the threat is circumstantial evidence relevant to the element of intent. M.S.A. S 609.713, subd. 1.	Is the effect of a terroristic threat an essential element of the offense?	Threats - Memo #163 - C - LB.docx	LEGALEASE-00047713-LEGALEASE-00047714
Com. v. Sholley, 432 Mass. 721	3.77E+11	It was of no consequence, for purposes of prosecution for threatening to commit a crime, that threat pertained to some uncertain time in the future. M.G.L.A. c. 275, S 2.	"If a threat pertains to some uncertain time in the future, does this have any consequence on the prosecution for threatening to commit a crime?"	046876.docx	LEGALEASE-00157692-LEGALEASE-00157693
Alejandro v. Riportella, 250 A.D.2d 556	413+102	Statute defining "employment" for purposes of coverage by workers' compensation law as including employment in trade, business or occupation carried on by employer for pecuniary gain, generally applies to employers carrying on business for profit, and not to persons who engage laborers to perform work on their private homes. McKinney's Workers' Compensation Law S 2, subd. 5.	How is employment defined in Workers Compensation?	047689.docx	LEGALEASE-00157492-LEGALEASE-00157493
Rotert v. Faulkner, 660 S.W.2d 463	83E+481	Even though note does not possess quality of negotiability, its owner may nonetheless, by assignment, transfer his interest to another, and any language, however informal, if it shows intention of owner of chose in action to transfer it, and sufficiently identifies subject matter, is sufficient to vest property therein in assignee.	Can the owner of a non-negotiable note transfer his interest by assignment?	009116.docx	LEGALEASE-00158938-LEGALEASE-00158939
Willard v. Bank of Am., 204 F. Supp. 3d 829	172H+1280	Credit card issuer did not relinquish its beneficial interest in credit card holder's credit card account by securitizing its credit card receivables and transferring them to a trust, and thus, credit card holder was not relieved of her obligation to pay the debt owed on the account; securitization merely created a separate contract involving the receivables, distinct from card holder's debt obligations, and did not divest the issuer of its ownership interest in the credit card account.	Does securitizing credit card receivables divest the issuer of its ownership interest in the credit card accounts?	014046.docx	LEGALEASE-00158750-LEGALEASE-00158751
Jackson-Shaw Co. v. Jacksonville Aviation Auth., 510 F. Supp. 2d 691	183+1	Under Florida law, franchises are permitted to be used for the good of the public, usually for the purpose of rendering an adequate service without unjust discrimination, and for a reasonable compensation.	Are franchises granted for public good?	018537.docx	LEGALEASE-00158945-LEGALEASE-00158946

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Gulf Ref. Co. v. Cleveland Tr. Co., 166 Miss. 759	183+1	"Franchise" is special privilege conferred by governmental authority, and which does not belong to citizens of country generally as matter of common right.	Does franchise belong to the citizens by common right?	018573.docx	LEGALEASE-00158759- LEGALEASE-00158760
Grosso v. Love, 667 A.2d 43	307A+561.1	Both statute of limitations and res judicata are affirmative defenses and, as such, are waived if not raised in a responsive pleading. Rules Civ.Proc., Rules 1030, 1032, 42 Pa.C.S.A.	Are statute of limitations and res judicata waived if not raised in a responsive pleading?	Pretrial Procedure - Memo # 10749 - C - TJ_63864.docx	ROSS-003282515
Kansas City Mortg. Co. v. Burgess, 306 So. 2d 161	241+180(7)	Three-year statute of limitations for an action for fraud is an affirmative defense and can be asserted by a motion to dismiss only if it appears on the face of a prior pleading. West's F.S.A. S 95.11(5)(d); 30 West's F.S.A. Rules of Civil Procedure, rule 1.110(d).	Will affirmative defenses appearing on face of prior pleading be asserted in motion to dismiss?	025451.docx	LEGALEASE-00158282- LEGALEASE-00158283
LaRocca v. Bailey, 799 So. 2d 1263	307A+693.1	A motion and order to dismiss without prejudice has the same force and effect as a final judgment. LSA-C.C.P. art. 1918.	Does a motion and order to dismiss without prejudice have the same force and effect as a final judgment?	Pretrial Procedure - Memo # 10988 - C - NS_64111.docx	ROSS-003278840-ROSS- 003278841
Kouba v. Febco, 543 N.W.2d 245	307A+693.1	Dismissal without prejudice neither precludes subsequent action nor addresses merits of action.	Does a dismissal without prejudice neither preclude subsequent action nor addresses merits of an action?	025786.docx	LEGALEASE-00159192- LEGALEASE-00159193
Weber v. Weber, 908 S.W.2d 356	307A+693.1	Dismissal of petition in civil action does not render counterclaim or cross-claim filed in action dismissed or discontinued. V.A.M.R. 67.05.	Does dismissal of a petition in a civil action not render a counterclaim or cross-claim filed in action dismissed or discontinued?	025792.docx	LEGALEASE-00159178- LEGALEASE-00159179
Iskalo Elec. Tower LLC v. Stantec Consulting Servs., 113 A.D.3d 1105	307A+46	Generally, a conditional order of dismissal is self-executing and a party's failure to produce the requested items on or before the date certain renders it absolute; nevertheless, a conditional order, like any other, must be sufficiently specific to be enforceable.	Is a conditional order of dismissal meant to be self-executing?	025804.docx	LEGALEASE-00159166- LEGALEASE-00159167
Golconda Petroleum Corp. v. Petrol Corp., 46 F. Supp. 23	307A+693.1	Where a party is allowed to intervene and the original action is dismissed, intervention also fails.	"Where a party is allowed to intervene and the original action is dismissed, does intervention also fail?"	Pretrial Procedure - Memo # 11059 - C - SHS_63446.docx	ROSS-003281391-ROSS- 003281392
Rausch v. Hanberry, 377 So. 2d 901	343+2205	Dilatory exception of prematurity was properly maintained as to action in redhibition, where plaintiff failed to tender return of the residence which allegedly contained vices and defects sufficient to warrant rescission of the sale, but dismissal of the action in redhibition should have been without prejudice; on the other hand, as to the quanti minoris relief sought, that demand was not premature since tender to return the object sold is not required to maintain an action in quanti minoris. LSA-C.C. arts. 2521, 2541, 2545; LSA-C.C.P. arts. 926, 930, 933 comment.	"When an action is premature, should it be dismissed?"	025882.docx	LEGALEASE-00158076- LEGALEASE-00158077
Butler v. Mayer, Brown & Platt, 301 Ill. App. 3d 919	307A+679	In ruling on motion to dismiss, court must accept as true all well-pleaded facts in plaintiff's complaint and all inferences that can reasonably be drawn in his favor. S.H.A. 735 ILCS 5/2-619.	Can a complaint be dismissed when no genuine issue of material fact exists?	025897.docx	LEGALEASE-00158112- LEGALEASE-00158113
Bd. of Educ. of City of Chicago v. Bd. of Trustees of Pub. Sch. Teachers' Pension & Ret. Fund of Chicago, 395 Ill. App. 3d 735	30+3200	Motions to dismiss based on certain defects or defenses present a question of law, and rulings thereon are reviewed de novo. S.H.A. 735 ILCS 5/2-619.	Are rulings reviewed de novo when motions to dismiss present a question of law?	025956.docx	LEGALEASE-00158280- LEGALEASE-00158281

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Turner v. Mem'l Med. Ctr., 233 Ill. 2d 494	307A+561.1	A motion to dismiss on the pleadings does not raise affirmative defenses, but rather alleges only defects on the face of the complaint. S.H.A. 735 ILCS 5/2-615.	Does a motion to dismiss on pleadings raise affirmative defense?	025966.docx	LEGALEASE-00158328-LEGALEASE-00158329
Dinges v. Gabardi, 202 Ill. App. 3d 732	307A+561.1	Even if complaint states cause of action on its face, where affirmative defense negates cause of action, dismissal is proper.	Will a dismissal be proper if complaint states cause of action on its face?	039555.docx	LEGALEASE-00159218-LEGALEASE-00159219
Keough v. Cyrus USA, 204 S.W.3d 1	307A+699	In the absence of evidence, a trial court does not abuse its discretion by denying a motion to reinstate.	"In the absence of evidence, does a trial court not abuse its discretion by denying a motion to reinstate?"	039598.docx	LEGALEASE-00159031-LEGALEASE-00159032
Violette v. Shoup, 16 Cal. App. 4th 611	308+3(1)	Person does not become agent of another simply by offering help or making suggestion.	Can a person become the agent of another simply by offering help or making a suggestion?	Principal and Agent - Memo 378 - RK_63936.docx	ROSS-003297002-ROSS-003297003
Cislaw v. Southland Corp., 4 Cal. App. 4th 1284	308+3(1)	General rule is where franchise agreement gives franchisor the right of complete or substantial control over the franchisee, an agency relationship exists.	When will a franchise agreement establish an agency relationship?	Principal and Agent - Memo 381 - RK_63939.docx	ROSS-003319442-ROSS-003319443
St. Clair Intermediate Sch. Dist.t v. Intermediate Educ. Ass'n/Michigan Educ. Ass'n, 458 Mich. 540	308+1	Fundamental to the existence of an agency relationship is the right to control the conduct of the agent with respect to the matters entrusted to him. Restatement (Second) of Agency S 14.	Is the right to control the conduct of the agent fundamental to the existence of an agency?	Principal and Agent - Memo 523 - RK_63981.docx	ROSS-003322810-ROSS-003322811
Am. Envtl. v. 3-J Co., 222 Ill. App. 3d 242	308+1	Attorney, broker, auctioneer, and other persons similarly employed for single transaction or for series of transactions are agents, although as to their physical activities they are independent contractors.	Is a brokeremployed for a single transaction an agent?	041967.docx	LEGALEASE-00159079-LEGALEASE-00159080
Caterpillar v. Usinor Industeel, 393 F. Supp. 2d 659	308+1	Under Illinois law, test for agency is whether alleged principal has right to control manner in which work is carried out by alleged agent, and whether alleged agent can affect legal relationships of principal.	What is the test for agency?	041970.docx	LEGALEASE-00159055-LEGALEASE-00159056
Moblard v. Klippenstein, 239 F. Supp. 274	308+1	Under Michigan law, an agent is a business representative whose function it is to bring about, modify, effect, accept performance of, or terminate contractual obligations between his principal and third persons.	Is an agent a business representative?	Principal and Agent - Memo 528 - RK_63986.docx	ROSS-003279021
Fischer v. Machado, 50 Cal. App. 4th 1069	308+1	Existence of fiduciary relation modifies all agency agreements and creates rules which do not apply to contracts in which one party is not agent for other.	Does existence of a fiduciary relationship modify all agency agreements?	Principal and Agent - Memo 530 - RK_63988.docx	ROSS-003281254-ROSS-003281255
Am. Envtl. v. 3-J Co., 222 Ill. App. 3d 242	308+1	Attorney, broker, auctioneer, and other persons similarly employed for single transaction or for series of transactions are agents, although as to their physical activities they are independent contractors.	Is an auctioneeremployed for a single transaction an agent?	042004.docx	LEGALEASE-00159089-LEGALEASE-00159090
Rosas v. Alice's Tea Cup, 127 F. Supp. 3d 4	24+123	The protections of the FLSA are available to citizens and undocumented workers alike; denying undocumented workers the protection of FLSA would permit abusive exploitation of workers and create an unacceptable economic incentive to hire undocumented workers by permitting employers to underpay them. Fair Labor Standards Act of 1938, S 1, 29 U.S.C.A. S 201.	Are the protections of the Fair Labor Standards Act (FLSA) available to citizens and undocumented workers alike?	"Aliens, Immigration and Citizenship - Memo 72 - RK_64806.docx"	ROSS-003321963-ROSS-003321964

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
CONTRERAS v. CORINTHIAN VIGOR INSURANCE BROKERAGE, 25 F.Supp.2d 1053	360+18.46	Employee's claim under the Fair Labor Standards Act (FLSA) alleging that employer reported her to Immigration and Naturalization Service (INS) in retaliation for bringing an unpaid wages and overtime claim was not precluded by California statute providing that communications during course of official proceeding were privileged; statute was preempted by FLSA, as Congress clearly intended FLSA's anti-retaliation provision to apply to all workers including undocumented aliens. U.S.C.A. Const. Art. 6, cl. 2; Fair Labor Standards Act of 1938, S 15(a)(3), as amended, 29 U.S.C.A. S 215(a)(3); West's Ann.Cal.Civ.Code S 47(b).	Are the protections of the Fair Labor Standards Act (FLSA) available to citizens and undocumented workers alike?	006923.docx	LEGALEASE-00160212-LEGALEASE-00160213
CONTRERAS v. CORINTHIAN VIGOR INSURANCE BROKERAGE, 25 F.Supp.2d 1053	360+18.46	Employee's claim under the Fair Labor Standards Act (FLSA) alleging that employer reported her to Immigration and Naturalization Service (INS) in retaliation for bringing an unpaid wages and overtime claim was not precluded by California statute providing that communications during course of official proceeding were privileged; statute was preempted by FLSA, as Congress clearly intended FLSA's anti-retaliation provision to apply to all workers including undocumented aliens. U.S.C.A. Const. Art. 6, cl. 2; Fair Labor Standards Act of 1938, S 15(a)(3), as amended, 29 U.S.C.A. S 215(a)(3); West's Ann.Cal.Civ.Code S 47(b).	Are the protections of the Fair Labor Standards Act (FLSA) available to undocumented workers?	006929.docx	LEGALEASE-00160218-LEGALEASE-00160219
I.N.S. v. Lopez-Mendoza, 468 U.S. 1032	24+423	Evidence derived from illegal but peaceful arrests by Immigration and Naturalization Service officers need not be suppressed in a civil deportation hearing held by the INS. (Per Justice O'Connor with three Justices concurring.)	Can evidence derived from arrests be suppressed in a civil deportation hearing?	006937.docx	LEGALEASE-00160202-LEGALEASE-00160203
Mendoza v. United States Immigration & Customs Enf't, 849 F.3d 408	24+107	Individual born abroad is presumed to be alien and bears burden of rebutting that presumption.	Does an individual born abroad is presumed to be an alien and bears the burden of rebutting that presumption?	"Aliens, Immigration, and Citizenship- Memo 3 - AM_64145.docx"	ROSS-003281059-ROSS-003281060
Am. Exch. Nat. Bank v. Steeley, 10 S.W.2d 1038	83E+335	Negotiability of bill or note is destroyed by reference therein to extrinsic contract to terms of which bill or note is subject.	Does a reference to some extrinsic contract in a bill of exchange or promissory note subjecting it to the terms of the contract destroy its negotiability?	010488.docx	LEGALEASE-00160071-LEGALEASE-00160072
Nat'l Leasing Corp. v. Williams, 80 F.R.D. 416	8.30E+10	Obligations of maker of note are determined by law of state designated on instrument as place of payment.	Can the obligations of the maker of note be determined by the law of the state designated on the instrument?	Bills and Notes-Memo 1399- JK_64839.docx	ROSS-003309366
Bologna Bros. v. Morrissey, 154 So. 2d 455	83E+433(1)	Every endorsement, accommodation or otherwise, is essentially original contract, equivalent to new note or bill in favor of holder, and accommodation paper is governed by same rules as other paper.	What is an endorsement equivalent to?	Bills and Notes-Memo 1400- JK_64840.docx	ROSS-003294310-ROSS-003294311
M.T. v. State, 2009 Ark. App. 761	129+107	For purposes of disorderly conduct, a public inconvenience, annoyance, or alarm can occur due to an individual's conduct whether the individual and the people are on public or private property. West's A.C.A. S 5-71-207(a)(1).	Can public inconvenience occur due to an individuals conduct?	014270.docx	LEGALEASE-00159936-LEGALEASE-00159937
Herkner v. Rubin, 126 Cal. App. 677	156+52(3)	Doctrines of estoppel by conduct and ratification have no application to contract which violates express mandate of law.	Does estoppel by conduct have no application to a contract which violates an express mandate of the law?	017864.docx	LEGALEASE-00159290-LEGALEASE-00159291

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Raymo, 419 So. 2d 858	181+5	It is necessary to offense of forgery that offender either actively desired to defraud another or that he must have known that defrauding another was reasonably certain to result from his act or failure to act; to defraud in sense intended by forgery definitions means to injure or prejudice rights of another, but it is unnecessary that injury result from actual consummation of fraud, and it is immaterial whom offender intended to defraud. LSA-R.S. 14:10, 14:72.	Is intent to defraud an essence of forgery?	018431.docx	LEGALEASE-00159705- LEGALEASE-00159706
People v. Parker, 152 Ill. App. 3d 732	181+1	Crime of forgery is committed when a defendant, by fraud or trickery, causes another to execute a deed of trust or other document where the signer is unaware, by reason of such trickery, that he is executing a document of that nature.	When is an offence of forgery said to be committed?	018439.docx	LEGALEASE-00159921- LEGALEASE-00159922
Application of City & Cty. of Honolulu Corp. Counsel, 54 Haw. 356	183+2	Where terms of franchise are uncertain and reasonably susceptible to multiple meanings, or if the provisions of the franchise are conflicting or ambiguous, the terms of the franchise are construed favorably to the public interests.	Should a franchise be construed in favor of the public?	Franchise - Memo 33 - KNR_64629.docx	ROSS-003293503-ROSS- 003293504
City of Gary v. Allstate Ins. Co., 612 N.E.2d 115	217+1001	"Insurance" generally is contract of indemnity through which party undertakes obligation to compensate another against loss arising from certain specified contingencies or perils; "insurance" shifts risk of loss from one party to another. West's A.I.C. 27-1-2-3(a).	Is insurance a contract of indemnity?	Insurance - Memo 81 - SNJ_64657.docx	ROSS-003278527-ROSS- 003278528
Barth v. City of Miami, 146 Fla. 542	302+17	A declaration must state clearly every fact essential to plaintiff's right of action, and the allegations thereof must be positive or by fair inference derived therefrom contain all the ultimate facts upon which plaintiff relies for recovery.	Should a declaration state distinctly and clearly every fact that is essential to the plaintiff's right of action?	023848.docx	LEGALEASE-00159656- LEGALEASE-00159657
Stern v. First Nat. Bank of S. Miami, 275 So. 2d 58	307A+561.1	A motion to dismiss may be based on an affirmative defense when grounds therefore appear on the face of a prior pleading. 30 F.S.A. Rules of Civil Procedure, rules 1.110(d), 1.140(b).	When a motion to dismiss is allowed based on an affirmative defense?	039576.docx	LEGALEASE-00159408- LEGALEASE-00159409
Labrie v. Kenney, 95 S.W.3d 722	307A+697	A dismissal for want of prosecution is not a decision on the merits, and does not prevent a party from refiling the suit.	"Is a dismissal for want of prosecution not a decision on the merits, and does not prevent a party from refiling the suit?"	039781.docx	LEGALEASE-00159350- LEGALEASE-00159351
Reid v. Spazio, 970 A.2d 176	307A+561.1	Since court is generally limited to facts appearing on the face of the pleadings when deciding a motion to dismiss for failure to state a claim upon which relief can be granted, affirmative defenses, such as laches, are not ordinarily well-suited fortreatment on such a motion. Chancery Court Rule 12(b)(6).	Can relief be granted when court is limited to facts appearing on the fact of the pleadings?	039918.docx	LEGALEASE-00159565- LEGALEASE-00159566
Colby v. Umbrella, Inc, 184 Vt. 1	307A+695	The complaint is a bare bones statement that merely provides the defendant with notice of the claims against it, and its purpose is to initiate the cause of action, not prove the merits of the plaintiff's case, and as such, the rules of civil procedure allow a plaintiff to plead over if she has omitted essential elements and require the court to take the plaintiff's allegations as true on a motion to dismiss, so as not to unfairly prejudice the plaintiff before she has any opportunity to develop the case. Rules Civ.Proc., Rule 15(a).	Is the complaint a bare bones statement that merely provides the defendant with notice of the claims against it?	040197.docx	LEGALEASE-00160224- LEGALEASE-00160225

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Technocom Bus. Sys. v. N. Carolina Dep't of Revenue, 219 N.C. App. 207	371+3602	One purpose of the sales and use tax scheme is to equalize the tax burden on all state residents; this is achieved through imposition of the use tax in certain situations where the sales tax is not applicable. West's N.C.G.S.A. S 105-164.1.	Is the purpose of the sales and use tax scheme is to equalize the burden on all state residents?	Taxation - Memo 1077 - C - SS_64485.docx	ROSS-003283342-ROSS-003283343
Jackson v. Univ. Hosp. of Cleveland, 122 Ohio App. 3d 371	413+11	The purpose of the Workers' Compensation Act is not to make an employer an absolute insurer of an employee's safety, but only to protect the employee against risks and hazards incident to the performance of his work. R.C. S 4123.01 et seq.	What is the purpose of the Workmens Compensation law?	048666.docx	LEGALEASE-00160188-LEGALEASE-00160189
Cessna Fin. Corp. v. Morrison, 667 S.W.2d 580	8.30E+10	Kansas law governs substantive rights and liabilities of parties to promissory note where note expressly provided for payment in Kansas.	Does the law of the state where the note in question is made payable govern the substantive liability of the parties?	010106.docx	LEGALEASE-00161767-LEGALEASE-00161768
United States v. Gelb, 944 F.2d 52	110+1134.75	In general, sentence within general limits and not based on materially inaccurate or otherwise improper information or communications will not be set aside on appeal.	Under what circumstances would a sentence be set aside on appeal?	012525.docx	LEGALEASE-00161501-LEGALEASE-00161502
Com. v. Weselyk, 268 Pa. Super. 569	63+16	Sentence of two concurrent terms of six to 12 months total confinement and concurrent term of five years' probation on bribery conviction of Department of Revenue employee was not excessive, in that although trial court found that imprisonment was not needed for rehabilitative or custodial purposes it was justified because of breach of public trust. 18 Pa.C.S.A. S 4701(a)(3).	Can a sentence of imprisonment be justified by an appellants breach of public trust?	012547.docx	LEGALEASE-00161497-LEGALEASE-00161498
United States v. Glazer, 129 F. Supp. 285	63+16	Where, in prosecution for bribery of government official under statute providing for fine of not more than three times amount of money offered as such bribe, indictment charged offer of \$100, and where, at trial, evidence was adduced that amount may have been \$2, there was variance between indictment and proof such as would render impossible ascertainment of amount of permissible fine which judge could impose under statute. 18 U.S.C.A. 201.	Should the government prove the amount of money offered as a bribe?	012569.docx	LEGALEASE-00161509-LEGALEASE-00161510
U.S. v. Brown, 364 F.3d 1266	135H+25	That forfeiture served in part a deterrent purpose does not automatically render it "punishment" for double jeopardy purposes. U.S.C.A. Const.Amend. 5.	"Does the forfeiture served in part a deterrent purpose and does not automatically render it ""punishment"" for double jeopardy purposes?"	015592.docx	LEGALEASE-00160692-LEGALEASE-00160693
Scott v. Blanchet High Sch., 50 Wash. App. 37	141E+931	Liability of school for negligent supervision of student is not limited to situations involving school hours, property, or curricular activities; extracurricular activities under the auspices of the school also fall within a school's duty.	"Is the liability of schools limited to situations involving school hours, property or curricular activities?"	017239.docx	LEGALEASE-00161056-LEGALEASE-00161057
Vogel v. Carolina Int'l, 711 P.2d 708	156+52.10(1)	Waiver requires clear, unequivocal, and decisive acts of party showing such purpose.	"Does a waiver require a clear, unequivocal, and decisive act of the party showing such a purpose?"	Estoppel - Memo 227 - C - CSS_65203.docx	ROSS-003280240-ROSS-003280241
Honey v. Henry's Franchise Leasing Corp. of Am., 64 Cal. 2d 801	322H+905	Wilfully defaulting purchaser under contract to purchase realty may recover excess of part payments over damages caused by his breach of contract to purchase realty. West's Ann.Civ.Code, S 3307.	Can a willfully defaulting vendee recover the excess of his part payments over damages caused by his breach?	Exchange of Property - Memo 88 - RK_66314.docx	ROSS-003310286-ROSS-003310287
State v. Homar, 798 P.2d 824	141+50	Easement for road or highway does not limit its use to movement of vehicles but, rather, embraces every reasonable method of travel over, under and along right-of-way.	"Does the grant of a public road easement embrace every reasonable method of travel over, under and along the right-of-way?"	Highways - Memo 394 - RK_66324.docx	ROSS-003307493-ROSS-003307494

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
McGrath v. Stevenson, 194 Wash. 160	200+77(2)	A man may have more than one place of "residence," within meaning of statute authorizing vacation of county road on petition of freeholders residing in the vicinity, though he can have only one place of residence for voting and other purposes. Rem.Rev.Stat. S 6503.	How many places of residence can a man have for voting purposes?	Highways - Memo 448 - RK_66348.docx	ROSS-003305573-ROSS-003305574
State ex rel. Arn v. State Comm'n of Revenue & Taxation, 163 Kan. 240	200+99	The construction and repair of public roads is a "governmental function" which may be exercised by the state or delegated to state or local agencies.	Is constructing and repairing the public roads and highways a governmental function?	018868.docx	LEGALEASE-00161725-LEGALEASE-00161726
Newman v. Mayor of City of Newport, 73 R.I. 385	200+80	The public acquires only an easement in legally established public highway, the fee in the soil remaining in owners of adjoining lands.	Does the public acquire an easement by the legal establishment of a public highway?	Highways - Memo 461 - RK.docx	LEGALEASE-00050776-LEGALEASE-00050777
Newman v. Mayor of City of Newport, 73 R.I. 385	200+80	The public acquires only an easement in legally established public highway, the fee in the soil remaining in owners of adjoining lands.	Does the public acquire an easement by the legal establishment of a public highway?	Highways - Memo 461 - RK_66361.docx	ROSS-003294115-ROSS-003294116
Shell Oil Co. v. Jackson Cty., 193 S.W.2d 268	200+165	Public roads belong to the state and are subject to legislative control, which control may be delegated to local authorities.	Are public roads belonging to the State subject to legislative control?	018891.docx	LEGALEASE-00161823-LEGALEASE-00161824
Jefferson Cty., Tenn. v. Tennessee Val. Auth., 146 F.2d 564	268+658	The state or its political subdivision holds, as a trustee, title to the easement for public highways and roads, and a quasi corporation such as a city or county holds such property by delegation of general sovereign power; authority for its acquisition and control being governmental and the interest exclusively that of the public.	Does the State hold as a trustee title to the easement for public highways and roads?	Highways - Memo 466 - RK_66366.docx	ROSS-003281387-ROSS-003281388
State v. Nelson, 158 Wash. 2d 699	200+86	Owner of fee in highway can use it only in way that is compatible with public travel thereon.	Can the owner of a fee in a highway use it only in a way that is compatible with the public travel thereon?	018896.docx	LEGALEASE-00161803-LEGALEASE-00161804
Kackley v. Burtrum, 947 S.W.2d 461	302+427	Issues raised by implied consent are treated as if raised by pleadings even though pleadings are not formally amended to conform to evidence. V.A.M.R. 55.33(b).	Are issues raised by implied consent treated as if raised by the pleadings?	023887.docx	LEGALEASE-00161435-LEGALEASE-00161436
Annen v. Trump, 913 S.W.2d 16	302+38.5	Primary purpose of petition is to define and isolate issues for parties and trial court.	"Is defining and isolating the issues for the parties and the trial court, the primary purpose of a petition?"	023891.docx	LEGALEASE-00161523-LEGALEASE-00161524
Almes v. Burket, 2005 PA Super 289	307A+697	A petition to open a judgment of non pros is addressed to the equitable powers of the court; it is a request to open a judgment of non pros by way of grace and not of right.	Is a petition to open a judgment of non pros addressed to the equitable powers of the court?	039654.docx	LEGALEASE-00161170-LEGALEASE-00161171
Mazer v. Sargent Elec. Co., 180 A.2d 63	307A+699	Motion to strike off judgments of non pros was improper where not directed to defects in record.	Is a motion to strike off judgments of non pros is improper where not directed to defects in record?	Pretrial Procedure - Memo 11241 - C - DA_65265.docx	ROSS-003308528
McKane Family Ltd. P'ship v. Sacajawea Family Ltd. P'ship, 211 So. 3d 117	307A+695	Although failure to comply with a statutory condition precedent to suit, absent waiver or estoppel, requires dismissal, such a lapse is not ultimately fatal, and the plaintiff may amend its complaint.	Does failure to comply with a statutory condition precedent to suit require dismissal?	040114.docx	LEGALEASE-00161393-LEGALEASE-00161394
White v. Pruneau, 913 S.W.2d 959	307A+694	Generally, dismissal without prejudice is not adjudication on the merits, and, unless otherwise barred, such dismissal allows party to refile action.	"Generally, is a dismissal without prejudice not adjudication on the merits?"	040300.docx	LEGALEASE-00160935-LEGALEASE-00160936

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Elite Door & Trim v. Tapia, 355 S.W.3d 757	307A+678	Subcontractor's failure to appear at hearing to determine whether to dismiss subcontractor's suit against sub-subcontractor for breach of contract, negligence, and breach of warranty for want of prosecution was not intentional or the result of conscious indifference, and case thus was not subject to dismissal under rule of civil procedure governing dismissal for want of prosecution based on subcontractor's failure to appear, where subcontractor had no notice from trial court of dismissal hearing. Vernon's Ann.Texas Rules Civ.Proc., Rule 165a(3).	Is a court authorized to dismiss a case for want of prosecution under the rules of civil procedure?	040395.docx	LEGALEASE-00160636- LEGALEASE-00160637
FIA Card Servs., N.A. v. Salmon, 180 Ohio App. 3d 548	307A+583	It is within the sound discretion of the trial court to dismiss an action for lack of prosecution, and an appellate court is confined solely to whether the trial court abused that discretion.	Is it within the sound discretion of the trial court to dismiss an action for lack of prosecution?	Pretrial Procedure - Memo 11725 - C - NE_65441.docx	ROSS-003280964-ROSS-003280965
HICA Educ. Loan Corp. ex rel. Sallie Mae v. Fielding, 953 So. 2d 1261	307A+583	A dismissal for want of prosecution is within the discretion and inherent power of the trial court.	Is a dismissal for want of prosecution within the discretion and inherent power of the trial court?	040453.docx	LEGALEASE-00161068- LEGALEASE-00161069
Levermann v. Cartall, 715 S.W.2d 728	307A+583	Trial court may dismiss suit for want of prosecution pursuant to its inherent power.	Can a court dismiss suit for want of prosecution pursuant to its inherent power?	Pretrial Procedure - Memo 11790 - C - NC_65648.docx	ROSS-003295201-ROSS-003295202
Scherer v. Hanson, 270 N.W.2d 23	307A+583	Determination whether to dismiss action for failure to prosecute is within discretion of the trial court. Rules Civ.Proc., Dist.Ct., rule 41.02(1), 27A M.S.A.	Is the determination of whether to dismiss an action within the discretion of the trial court?	Pretrial Procedure - Memo 11797 - C - NC_65473.docx	ROSS-003281086-ROSS-003281087
Providence Bank v. Billings, 29 U.S. 514	371+2003	The power of legislation and consequently of taxation operates on all the persons and property belonging to the body politic.	Does the power of taxation operate on all the persons and property belonging to the body politic?	046298.docx	LEGALEASE-00161693- LEGALEASE-00161694
Indiana Nat. Bank of Indianapolis v. Goss, 208 F.2d 619	8.30E+10	Under Illinois law, law of place of payment of note is the law which will govern the nature, validity, interpretation, and effect of the obligation.	"Does the law of the place of performance of a contract govern the nature, validity, interpretation and effect of the obligation?"	009215.docx	LEGALEASE-00162632- LEGALEASE-00162633
United States v. \$184,505.01 in U.S. Currency, 72 F.3d 1160	135H+25	Forfeiture proceeding in which party does not participate does not place that party in jeopardy, and therefore that party cannot use that forfeiture as basis of double jeopardy challenge to subsequent proceeding. U.S.C.A. Const.Amend. 5.	Does a forfeiture proceeding in which the party does not participate place that party in jeopardy?	Double Jeopardy - Memo 106 - C - SB_65885.docx	ROSS-003282294-ROSS-003282295
U.S. v. Thompson, 118 F. Supp. 2d 723	135H+25	Jeopardy does not attach in civil forfeiture case on date when property becomes forfeitable. U.S.C.A. Const.Amend. 5.	Does jeopardy not attach in a civil forfeiture case on a date when property becomes forfeitable?	014974.docx	LEGALEASE-00162226- LEGALEASE-00162227
Nero v. D.C., 936 A.2d 310	135H+96	A defendant waives his double jeopardy right and may be retried if he moves for a mistrial. U.S.C.A. Const.Amend. 5.	Does a defendant waives his double jeopardy right and may be retried if he moves for a mistrial?	015059.docx	LEGALEASE-00162466- LEGALEASE-00162467
Antoine E.J. v. Birch Family Servs., 95 A.D.3d 832	141E+795	Schools are under duty to adequately supervise students in their charge and they will be held liable for foreseeable injuries proximately related to absence of adequate supervision.	Do schools have a duty to supervise students and protect them against intentional injuries?	017185.docx	LEGALEASE-00161992- LEGALEASE-00161994
Regents of Univ. of Michigan v. State, 395 Mich. 52	360+131	Some, but not all, conditions may be imposed upon an appropriation to a constitutional college or university but the legislature may not interfere with the management and control of those institutions; within those limitations, legislature may appropriate state funds for a special purpose and, if the university accepts the appropriation, it must use the funds for that purpose. M.C.L.A.Const.1963, art. 8, SS 4, 5.	Can the legislature interfere with the management and control of a university?	Education - Memo 356 - C - ATS_65922.docx	ROSS-003295145-ROSS-003295146

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Chemlen, 165 Conn. App. 791	181+4	The ordinary meaning of "deceive," as used in forgery statute, is to cause to believe the false; deceive indicates an inculcating of one so that he takes the false as true, the unreal as existent, the spurious as genuine. C.G.S.A. S 53a-139(a).	What is the difference between intent to deceive and intent to defraud under the forgery statute?	018465.docx	LEGALEASE-00161934-LEGALEASE-00161935
United States v. Pearce, 65 F.3d 22	181+4	Minimal nexus between document-making implement and interstate commerce is sufficient to constitute violation of statute prohibiting fraud in connection with identification documents. 18 U.S.C.A. S 1028(a)(5).	Is a minimal nexus with interstate commerce sufficient to constitute violation of the forgery statute?	018469.docx	LEGALEASE-00162013-LEGALEASE-00162014
Browning v. State, 174 Ga. App. 759	181+4	Uttering or delivering writing is essential element of offense of forgery in the first degree; but it is not essential element of offense of forgery in the second degree. O.C.G.A. S 16-9-2(a).	Is uttering or delivering any writing an essential element of forgery in the first degree?	Forgery - Memo 57 - SNJ_65941.docx	ROSS-003278285-ROSS-003278286
Arnold v. Erkmann, 934 S.W.2d 621	289+1040	To bring action for right to accounting of partnership profits, plaintiff must plead existence of partnership and withholding of profits.	"To bring an action for accounting, does the plaintiff need to plead the existence of a partnership?"	022694.docx	LEGALEASE-00162247-LEGALEASE-00162248
Doe v. Gleicher, 393 Ill. App. 3d 31	307A+695	Claims dismissed without an opportunity to amend are final even if the case is not dismissed in its entirety.	Are claims dismissed without an opportunity to amend final even if the case is not dismissed in its entirety?	Pretrial Procedure - Memo 11566 - C - BP_65989.docx	ROSS-003296208-ROSS-003296209
Doe v. Sex Offender Registry Bd., 459 Mass. 603	268+256	The critical question in determining whether an exaction is designed to compensate a governmental entity providing services for its expenses is whether the fees are reasonably designed to compensate an entity for its anticipated regulatory expenses; in making this determination, reasonable latitude must be given to the agency in fixing charges to cover its anticipated expenses in connection with the services to be rendered.	"In determining whether a charge is a fee or a tax, what is the critical question to be decided by the court?"	046156.docx	LEGALEASE-00162514-LEGALEASE-00162515
ANR Pipeline Co. v. Lafaver, 150 F.3d 1178	371+2003	State's interests in integrity of its property tax system lie at core of the state's sovereignty.	Do a state's interests in the integrity of its property tax system lie at the core of the state's sovereignty?	046335.docx	LEGALEASE-00161950-LEGALEASE-00161951
Amos v. Mathews, 99 Fla. 1	371+2005	As inherent attribute of sovereignty, state may impose all taxes not expressly or by clear implication inhibited by State or Federal Constitutions.	Can the state impose any tax that is inhibited by State or Federal Constitutions?	Taxation - Memo 1176 - C - JL_65993.docx	ROSS-003280197-ROSS-003280198
Lovell By & Through Lovell v. Poway Unified Sch. Dist., 90 F.3d 367	3.77E+11	Statutes punishing threats must be interpreted with commands of First Amendment clearly in mind; what is a threat must be distinguished from what is constitutionally protected speech. U.S.C.A. Const.Amend. 1.	Statutes punishing threats must be interpreted with the commands of which amendment in mind?	046975.docx	LEGALEASE-00162202-LEGALEASE-00162203
Thornton v. Dean, 19 S.C. 583	219+28	If a contract be entered into in one place to be performed in another, the parties may stipulate for the rate of interest of either country; if the contract stipulate generally for interest without fixing the rate, it should be the rate of interest at the place of payment; if no interest be stipulated, and payment be not made, interest by way of damages is according to the law of the place of payment.	Can parties stipulate the rate of interest?	009138.docx	LEGALEASE-00162827-LEGALEASE-00162828
Johnston v. Gawtry, 83 Mo. 339	8.30E+10	The state in which a note is made payable, and in which it is delivered in consummation of a bargain, is the place of the contract.	Is the state in which a note is made payable and in which it is delivered in consummation of a bargain the place of the contract?	Bills and Notes - Memo 1351 - RK_66254.docx	ROSS-003320637-ROSS-003320638

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Evans v. Anderson, 78 Ill. 558	8.30E+10	The existing laws of the state at the time of making a note therein form a portion of the contract, and the liability of the maker must be determined under them.	Which law determines the liability of the maker of a note?	Bills and Notes - Memo 1355 - RK_66257.docx	ROSS-003307569-ROSS-003307570
United States v. Lemons, 67 F. Supp. 985	8.30E+11	The law of the state in which a check or negotiable instrument is executed determines the formality and essential validity thereof, and the incidents of the obligation of such instrument.	Which law determines the incidents of obligation of a check	Bills and Notes - Memo 1360 - RK.docx	LEGALEASE-00052497-LEGALEASE-00052498
Indiana Nat. Bank of Indianapolis v. Goss, 208 F.2d 619	8.30E+10	Under Illinois law, law of place of payment of note is the law which will govern the nature, validity, interpretation, and effect of the obligation.	"What governs the nature, validity, interpretation and effect of the obligation of a note?"	Bills and Notes - Memo 1368 - RK_66269.docx	ROSS-003296858-ROSS-003296859
Dep't of Consumer & Bus. Servs. v. Clements, 240 Or. App. 226	413+186	The court must determine whether an employer is a subject employer or a nonsubject employer under the Workers' Compensation Law before it can determine whether that employer's worker who is applying for workers' compensation is employed by a nonsubject employer for purposes of the casual worker exception to subject worker status, which applies when a casual worker is employed in the course of the trade, business, or profession of a nonsubject employer, and thus, since the Workers' Compensation Law states that a subject employer is one who employs one or more subject workers, the employee whose status as a subject worker is still in question cannot be counted as the only subject worker of that employer for purposes of establishing that the employer is a subject employer. West's Or.Rev. Stat. Ann. SS 656.023, 656.027(3)(a)(B).	"In Workers Compensation, must a determination of whether one is a worker be made before it can be determined if that person is a subject or nonsubject worker?"	048717.docx	LEGALEASE-00162711-LEGALEASE-00162712
United States v. Hernandez, 803 F.3d 1341	135H+25	Because restitution and forfeiture serve different purposes, imposition of both does not implicate double jeopardy. U.S.C.A. Const.Amend. 5.	"Because restitution and forfeiture serve different purposes, does imposition of both not implicate double jeopardy?"	Double Jeopardy - Memo 139 - C - SKG_66383.docx	ROSS-003280228-ROSS-003280229
Warren v. McDonald, 28 Vet. App. 214	34+136	A veteran's withdrawal of an appeal to the Board of Veterans' Appeals is only effective where withdrawal is explicit, unambiguous, and done with a full understanding of the consequences of such action on the part of the claimant. 38 C.F.R. SS 20.204, 20.204(b).	When is a veteran's withdrawal of an appeal to the Board of Veterans' Appeals effective?	008855.docx	LEGALEASE-00163928-LEGALEASE-00163929
Stewart v. Citizens & S. Nat. Bank, 138 Ga. App. 209	8.30E+27	Check is merely an order on bank to pay from drawer's account, and may be revoked at any time by the drawer before it has been certified, accepted, or paid by the bank, and may be revoked by operation of the law on the death of the drawer. Code, S 109A-4-405.	When can a check be revoked?	009331.docx	LEGALEASE-00163013-LEGALEASE-00163014
Lambeth v. Lewis, 114 Ga. App. 191	162+221(4.1)	Check is revoked by drawer's death but may in proper action be used as evidence in support of payee's claim of indebtedness against decedent but not as evidence of indebtedness itself. Code, SS 109A-3-409, 109A-4-405.	Can a be used as evidence in support of the payee's claim of indebtedness against the decedent but not as evidence of the indebtedness itself?	Bills and Notes - Memo 1455 - RK_66511.docx	ROSS-003283223-ROSS-003283224
Robinson v. State Farm Mut. Auto. Ins. Co., 52 So. 3d 416	135+2	Residency is a more flexible concept than domicile, and permanency is not a requirement for residency; even a temporary and transient place of dwelling can qualify.	Can even a temporary and transient place of dwelling qualify for residency?	Domicile - Memo 49 - C - AD_67128.docx	ROSS-003305396

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Shinault, 147 F.3d 1266	135H+59	Defendant has a valued right to have his trial completed by a particular tribunal; as soon as the jury is sworn, the defendant acquires a constitutional interest, under Double Jeopardy Clause, in having that jury see his case through to a conclusion. U.S.C.A. Const.Amend. 5.	Does the defendant acquire a constitutional interest to have jury see his case through to a conclusion?	014800.docx	LEGALEASE-00163950- LEGALEASE-00163951
State v. Stover, 271 Or. 132	135H+51	Jeopardy does not attach until jury is sworn or, if judge is trier of fact, until first witness is sworn, or until defendant is convicted on plea of guilty.	Will jeopardy attach when first witness is sworn?	Double Jeopardy - Memo 1102 - C - NS_68007.docx	ROSS-003305773-ROSS- 003305774
People v. Herdman, 310 P.3d 170	135H+30	A sentence enhancer is not a substantive element of an offense for purposes of double jeopardy analysis. U.S.C.A. Const.Amend. 5.	Is a sentence enhancer a substantive element of an offense for purposes of double jeopardy analysis?	Double Jeopardy - Memo 1122 - C - TJ_68026.docx	ROSS-003282610
Williams v. New York, 367 F. Supp. 2d 449	135H+30	There is no double jeopardy bar to use of prior convictions in sentencing a persistent offender. U.S.C.A. Const.Amend. 5.	Is there a double jeopardy bar to use of prior convictions in sentencing a persistent offender?	014943.docx	LEGALEASE-00163998- LEGALEASE-00163999
United States v. Muth, 896 F. Supp. 196	135H+25	Jeopardy did not attach in civil forfeiture proceeding until final judgment was entered, and, therefore, double jeopardy principles did not preclude criminal prosecution which arose from same facts as those underlying civil forfeiture proceedings which began before, but which ended after, defendant pled guilty to the criminal charge. U.S.C.A. Const.Amend. 5.	Does jeopardy not attach in a civil forfeiture proceeding until final judgment is entered?	015168.docx	LEGALEASE-00163519- LEGALEASE-00163520
State v. Lynch, 134 N.M. 139	135H+96	A defendant's motion for or consent to a mistrial generally forecloses any claim of double jeopardy. U.S.C.A. Const.Amend. 5; Const. Art. 2, S 15.	Does a defendant's motion for or consent to a mistrial generally foreclose any claim of double jeopardy?	015226.docx	LEGALEASE-00162983- LEGALEASE-00162984
People v. Tate, 317 Ill. App. 3d 272	135H+99	Existence of manifest necessity for a mistrial is requisite only where the state requests a mistrial that the defendant opposes; where the defendant seeks a mistrial, there is no need for such a finding.	Is the existence of manifest necessity for a mistrial requisite only where the state requests a mistrial that the defendant opposes?	Double Jeopardy - Memo 286 - C - KG_66971.docx	ROSS-003285801
Davidson v. United States, 48 A.3d 194	135H+96	When a mistrial is declared with the consent of the defendant or upon his motion, it is ordinarily assumed to remove any barrier to reprosecution. U.S.C.A. Const.Amend. 5.	Is a motion by a defendant for mistrial ordinarily assumed to remove any double jeopardy barrier to reprosecution?	015323.docx	LEGALEASE-00163183- LEGALEASE-00163184
United States v. Bauman, 887 F.2d 546	135H+201	Double jeopardy clause is not absolute bar to reprosecution once jury has been empaneled and sworn; defendant may, for example, waive double jeopardy protection by consenting to mistrial before verdict is rendered. U.S.C.A. Const.Amend. 5.	Is the double jeopardy clause not an absolute bar to reprosecution once a jury has been empaneled and sworn?	Double Jeopardy - Memo 346 - C - NE_66536.docx	ROSS-003281514-ROSS- 003281515
United States v. Holley, 986 F.2d 100	135H+59	Double jeopardy clause is not absolute bar to reprosecution once jury has been empaneled and sworn. U.S.C.A. Const.Amend. 5.	Is the double jeopardy clause not an absolute bar to reprosecution once a jury has been empaneled and sworn?	015373.docx	LEGALEASE-00162917- LEGALEASE-00162918
Com. v. Graham, 109 A.3d 733	135H+97	If the prosecution engages in certain forms of intentional misconduct, the double jeopardy clause bars retrial. U.S.C.A. Const.Amend. 5.	Does the law ordinarily permit retrial when the defendant successfully moves for a mistrial unless the prosecution has engaged in certain forms of intentional misconduct?	015387.docx	LEGALEASE-00163139- LEGALEASE-00163140
State v. Roberts, 119 Ohio St. 3d 294	135H+100.1	Acquittals are afforded absolute finality for purposes of applying double jeopardy protections. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 10.	Are acquittals afforded absolute finality for purposes of applying double jeopardy protections?	015601.docx	LEGALEASE-00162961- LEGALEASE-00162962
Bishop v. State, 176 Ga. App. 357	135H+95.1	Mistrial declared for erroneous reasons and not for legal cause is bar to another trial. O.C.G.A. S 16-1-8(e)(2)(D).	Is a mistrial declared for erroneous reasons and not for legal cause a bar to another trial?	Double Jeopardy - Memo 465 - C - TJ_67154.docx	ROSS-003292684

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
People ex rel. Spiers v. Lawley, 17 Cal. App. 331	391+23	Where a grant of a franchise to construct and maintain a toll road contained in itself no provision requiring that the consent of the state should first be obtained before the right to sell or transfer the franchise could be exercised, or any statute to that effect, it might be transferred without the consent of the state.	Can franchises be transferred without consent?	018601.docx	LEGALEASE-00163253- LEGALEASE-00163254
Cockburn v. O'Meara, 155 F.2d 340	260+79.1(0.5)	In Louisiana, the payment of an overriding royalty is the payment of "rent" and is not the payment of the price for the oil or gas rights as if they were sold.	Does the payment of an overriding royalty constitute a payment of rent or rather the payment of the price for the oil or gas rights as if they were sold?	021686.docx	LEGALEASE-00163315- LEGALEASE-00163316
State of New Mexico Uninsured Employers' Fund v. Gallegos, 395 P.3d 533	307A+697	A party may move by right to reinstate within 30 days of dismissal, but whether the motion will be granted depends on the existence of the moving party's good cause justification for failing to prosecute its cause of action during the 180 days preceding dismissal. NMRA 1-041(E)(2), 1-060(B)(6).	Can a party move by right to reinstate within 30 days of dismissal?	Pretrial Procedure - Memo 11896 - C - SHB.docx	LEGALEASE-00053589- LEGALEASE-00053590
Wells Fargo Bank, N.A. v. Bohatka, 112 So. 3d 596	302+243	For purposes of general rule that trial courts are to give plaintiffs an opportunity to amend a defective pleading, the failure to attach necessary documents is a remediable offense.	"As a general matter, are trial courts to give plaintiffs an opportunity to amend a defective pleading?"	040790.docx	LEGALEASE-00163837- LEGALEASE-00163838
Malone v. Com., 636 S.W.2d 647	110+55	Intent or knowledge are not elements of the crimes of forcible rape and sodomy so as to make voluntary intoxication available as a defense. KRS 501.020, 501.050, 501.080, 510.040(1)(a), 510.070(1)(a).	Is intoxication a defense to the crime of rape?	043125.docx	LEGALEASE-00164086- LEGALEASE-00164087
People v. Hamil, 20 Ill. App. 3d 901	352H+190	Intent to commit rape may be inferred from conduct of accused, character of assault, acts done and time and place of occurrence, as well as from words spoken. S.H.A. ch. 38, S 8-4.	Can intent to commit rape be inferred from the defendants words?	Sex Offenses - Memo 131 - RK.docx	LEGALEASE-00053836- LEGALEASE-00053837
State v. Robinson, 345 Mo. 897	352H+191	Where a man has carnal intercourse with a woman mentally incapable of giving consent he is not guilty of "rape" if he believes he has her consent and is unaware of her infirmity, and burden is on the state to establish the woman's incapacity.	Is sexual intercourse with a woman incapable from mental infirmity of giving consent rape?	043137.docx	LEGALEASE-00164080- LEGALEASE-00164081
Towell v. Steger, 154 S.W.3d 471	3.77E+05	Stalking statutes should be construed narrowly enough to prevent serious abuse, but broadly enough to maximize victim protection. V.A.M.S. S 455.010.	How should the stalking statute be construed to prevent serious abuse?	046988.docx	LEGALEASE-00163389- LEGALEASE-00163390
Curry v. State, 17 Ga. App. 377	3.77E+28	Stalking statute was intended to fill gaps in law by criminalizing conduct that fell short of assault or battery. West's F.S.A. S 784.048.	How was the stalking statute intended to fill gaps in the law?	"Threats, Stalking and Harassment - Memo 243 - C - LB_66848.docx"	ROSS-003293829-ROSS- 003293830
Rush v. Oppenheimer & Co., 779 F.2d 885	25T+182(2)	Bare fact that an answer was filed is inadequate by itself to support a claim of waiver of arbitration, absent demonstration of prejudice to other party.	Is filing an answer adequate to support a claim of waiver of arbitration?	Alternative Dispute Resolution - Memo 871 - RK_67476.docx	ROSS-003295779
Gulf Guar. Life Ins. Co. v. Connecticut Gen. Life Ins. Co., 304 F.3d 476	25T+184	Jurisdiction of courts to intervene into arbitral process prior to issuance of award is very limited; courts are limited to decisions regarding whether a valid agreement to arbitrate exists and scope and enforcement of that agreement, including the arbitrability of given underlying disputes under agreement.	Is the jurisdiction by the courts to intervene into the arbitral process prior to issuance of an award limited under the Federal Arbitration Act (FAA)?	008122.docx	LEGALEASE-00165048- LEGALEASE-00165050
Buck v. Davenport Sav. Bank, 29 Neb. 407	83E+432	A writing on the back of a note, "Demand, notice, and protest waived, and payment guaranteed," signed by the payee of the note, is an indorsement.	Does a writing protest waived on the back of a note constitutes an indorsement with enlarged liability?	010059.docx	LEGALEASE-00164323- LEGALEASE-00164324

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Shultz v. S.E.C., 614 F.2d 561	349B+40.14(2)	Disciplinary actions taken by the business conduct committee of an exchange are subject to full review by the Securities and Exchange Commission.	Are the Exchange Committee disciplinary actions subject to full review by the Securities and Exchange Commission?	013630.docx	LEGALEASE-00164264-LEGALEASE-00164265
State v. Guillaume, 293 Mont. 224	135H+30	Weapon enhancement statute is a sentencing factor, and does not create a separate crime or element of a crime in violation of the protection against double jeopardy. MCA 46-18-221.	Is weapon enhancement statute a sentencing factor?	014997.docx	LEGALEASE-00164619-LEGALEASE-00164620
State v. Morgan, 32 Wash. App. 236	135H+30	Principles of double jeopardy do not apply to additional trial of penalty enhancement statute. U.S.C.A. Const.Amend. 5.	Do principles of double jeopardy apply to additional trial of penalty enhancement statute?	Double Jeopardy - Memo 1239 - C - NE_67376.docx	ROSS-003280213-ROSS-003280214
Raulerson v. State, 609 So. 2d 1301	350H+1240	Sentence for committing first-degree felony punishable by life may be enhanced under the habitual violent felony offender statute. West's F.S.A. S 775.084.	Does habitual violent felony offender statute violate double jeopardy?	015048.docx	LEGALEASE-00164831-LEGALEASE-00164832
Com. v. Cumming, 466 Mass. 467	135H+5.1	The constitutional guarantee against double jeopardy protects a defendant not only against a second prosecution for the same offense after acquittal or conviction but also against multiple punishments for the same offense. U.S.C.A. Const.Amend. 5.	Does double jeopardy represent a constitutional policy of finality for the defendant's benefit in criminal proceedings?	Double Jeopardy - Memo 862 - C - NS.docx	LEGALEASE-00054297-LEGALEASE-00054298
State v. Hoyt, 922 S.W.2d 443	135H+59	Defendant is not placed in jeopardy in jury trial until jury has been properly impaneled and sworn; where no jury had been sworn before court dismissed charge, jeopardy had not attached, and prosecution was free to refile the charge. U.S.C.A. Const.Amend. 5.	Will a jeopardy be attached in a jury trial until the jury is empaneled and sworn?	016663.docx	LEGALEASE-00165131-LEGALEASE-00165132
Ex Parte Victorick, 453 S.W.3d 5	135H+56.1	With respect to a jury trial, jeopardy attaches, for double jeopardy purposes, when the jury is empaneled and sworn, and for a bench trial, jeopardy attaches when the defendant pleads to the charging instrument. U.S. Const. Amend. 5.	Does a jeopardy attach when the defendant pleads to the charging instrument?	Double Jeopardy - Memo 991 - C - PC.docx	LEGALEASE-00054327-LEGALEASE-00054328
Superior Dispatch v. Ins. Corp. of New York, 181 Cal. App. 4th 175	156+53	Estoppel may arise although there was no designed fraud on the part of the person sought to be estopped.	Can an estoppel arise although there was no designed fraud on the party of the person sought to be estopped?	Estoppel - Memo 304 - C - CSS_67186.docx	ROSS-003282184-ROSS-003282185
Cosby v. Moore, 259 Ala. 41	156+56	An estoppel cannot exist where knowledge of both parties is equal, and nothing is done by the one to mislead the other.	"Can an estoppel exist where knowledge of both parties is equal, and nothing is done by the one to mislead the other?"	018283.docx	LEGALEASE-00164447-LEGALEASE-00164448
Kimack v. Adams, 930 S.W.2d 505	233+531	"Lease," as distinguished from license, is not mere privilege to enter premises for specific purpose, but agreement which gives rise to relationship of landlord and tenant, and which entitles tenant to exclusive possession of premises for determinate period.	Is a lease an agreement which gives rise to the relationship between landlord and tenant?	Landlord and Tenant - Memo 84 - RK_67506.docx	ROSS-003296454-ROSS-003296455
In re Safeguard Self-Storage Tr., 2 F.3d 967	238+44(2)	Under California common law, use of lease language is not conclusive of intention but strongly indicates that parties contemplated a lease, rather than a license, relationship.	Is the use of lease language conclusive of the intention of the parties contemplating such a relationship?	Landlord and Tenant - Memo 87 - RK_67509.docx	ROSS-003282335-ROSS-003282336
Beckett v. City of Paris Dry Goods Co., 14 Cal. 2d 633	233+507	The use of the terminology of a lease, such as "tenantable," "lease," "demised," and "rental," is not conclusive of intention but strongly indicates that parties contemplated the landlord-tenant relation.	Is the use of lease language conclusive of the intention of the parties contemplating such a relationship?	021024.docx	LEGALEASE-00164963-LEGALEASE-00164964
In re Strickland, 2002 WL 58482	307A+699	A reinstatement order rendered after expiration of the trial court's plenary power is void.	Is a reinstatement order rendered after expiration of the trial court's plenary power void?	Pretrial Procedure - Memo 12159 - C - RF_67583.docx	ROSS-003293017-ROSS-003293018

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
City of Harrisburg v. Sch. Dist. of City of Harrisburg, 675 A.2d 758	371+2311	Normally taxable activity conducted on exempt public real property is subject to taxation. 72 P.S. S 5020-204(a)(7).	Is a taxable activity conducted on exempt public real property subject to taxation?	Taxation - Memo 1243 - C - SS_67228.docx	ROSS-003296662-ROSS-003296663
L&B Real Estate v. Hous. Auth. of Cty. of Los Angeles, 149 Cal. App. 4th 950	371+2311	Although provisions exempting private property from taxation are strictly construed, because taxation of public property is the exception and not the rule, and may occur only if there is express authority to do so, the exemption for public property is liberally construed. West's Ann.Cal. Const. Art. 13, S 3.	When can a public property be taxed?	046452.docx	LEGALEASE-00164545-LEGALEASE-00164546
City of Egg Harbor City v. Cty. of Atl. Cty., 10 N.J. Tax 7	371+2311	If private user of public property is carrying out a public purpose, real property will not be taxed for local property tax purposes.	"When the private user of a public property is carrying out a public purpose, will the real property be taxed for local property tax purposes?"	Taxation - Memo 1264 - C - SS_67410.docx	ROSS-003296674-ROSS-003296675
Knight v. State, 25 Ark. App. 353	3.77E+12	To be found guilty of terroristic threatening, defendant must have intended to fill victim with intense fright. A.C.A. S 5-13-301.	What must the defendant intend to fill the victim with in order to be found guilty of threatening the victim?	047037.docx	LEGALEASE-00164499-LEGALEASE-00164500
People v. Kirkpatrick, 365 Ill. App. 3d 927	3.77E+18	The trier of fact may look to the context in which a threat arose when determining whether the threat was credible, for purposes of determining whether a defendant committed the offense of threatening a public official.	Where may the trier of fact look when determining whether the threat was credible?	047055.docx	LEGALEASE-00164579-LEGALEASE-00164580
Liberty Mut. Ins. Co. v. Gulf Oil Corp., 559 F. Supp. 777	413+186	Where basis of alleged liability is workers' compensation and plaintiff sues those employers with whom he had an employee-employer relationship, then liability becomes a solidary one between those employers. LSA-R.S. 23:1061.	"In workers compensation, when does liability become a solidary?"	Workers' Compensation - Memo 745 - C - ANC_67244.docx	ROSS-003307439-ROSS-003307440
Reyes v. S. Boulevard Partners, 78 A.D.2d 746	413+186	Neither usage with respect to coverage nor specific agreement is controlling upon issue of employment in workers' compensation case.	Does usage with respect to coverage or a specific agreement control the issue of employment?	048787.docx	LEGALEASE-00164335-LEGALEASE-00164336
Lamb v. State Work Relief Comp. Fund, 127 Pa. Super. 44	413+186	Ordinarily, test of determining by whom one is employed does not depend solely on payment of wages, but it may aid in determining that fact.	Does the payment of wages aid in determining who one is employed by?	048810.docx	LEGALEASE-00164709-LEGALEASE-00164710
State v. Strine, 176 Wash. 2d 742	135H+59	Jeopardy attaches after the jury is selected and sworn; it is not necessary that argument or testimony be presented. U.S.C.A. Const.Amend. 5; West's RCWA Const. Art. 1, S 9.	Is it necessary that argument or testimony be presented when jeopardy attaches after the jury is selected and sworn?	Double Jeopardy - Memo 1014 - C - DHA_67631.docx	ROSS-003283958-ROSS-003283959
State v. Juarez, 115 Wash. App. 881	135H+59	Jeopardy attaches after jury is selected and sworn; it is not necessary that argument or testimony be presented. U.S.C.A. Const.Amend. 5; West's RCWA Const. Art. 1, S 9.	Is it necessary that argument or testimony be presented when jeopardy attaches after the jury is selected and sworn?	014634.docx	LEGALEASE-00165311-LEGALEASE-00165312
Richardson v. United States, 468 U.S. 317	135H+98	Neither failure of jury to reach verdict nor trial court's declaration of a mistrial following a hung jury was an event that terminated original jeopardy which attached when jury was sworn, so that defendant had no valid double jeopardy claim that second trial was barred because of failure to introduce legally sufficient evidence to go to jury, regardless of sufficiency of evidence at first trial. U.S.C.A. Const.Amend. 5.	When will the protection of double jeopardy clause apply?	Double Jeopardy - Memo 1023 - C - KG_67738.docx	ROSS-003308517-ROSS-003308518
Turner v. State ex rel. Gruver, 168 So. 2d 192	135H+59	Jeopardy attaches when the jury is impaneled and sworn; however, not every mistrial declared after jeopardy attaches invokes the protections of the double jeopardy clause. U.S.C.A. Const.Amend. 5; West's F.S.A. Const. Art. 1, S 9.	Would the declaration of a mistrial after jeopardy attaches invoke the protection of double jeopardy clause?	014684.docx	LEGALEASE-00165682-LEGALEASE-00165683

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Potts, 181 S.W.3d 228	135H+59	The primary reason jeopardy is said to attach after the jury is selected is to protect the interest of an accused in retaining a chosen jury. U.S.C.A. Const.Amend. 5.	What is the primary reason for jeopardy to attach after the jury is selected?	Double Jeopardy - Memo 1058 - C - VA_67880.docx	ROSS-003285653-ROSS-003285654
Reese v. State, 190 Misc. 316	135H+59	Jeopardy principles pose no bar to declaration of mistrial when jury has not been impanelled or sworn. U.S.C.A. Const.Amend. 5.	Does jeopardy principles pose bar to declaration of mistrial when jury has not been impaneled or sworn?	014816.docx	LEGALEASE-00166056-LEGALEASE-00166057
State v. Rudy B., 147 N.M. 45	135H+1	The United States Constitution prohibits the states from twice exposing a citizen to punishment for the same offense. U.S.C.A. Const.Amend. 5.	Does the United States Constitution prohibit the states from twice exposing a citizen to punishment for the same offense?	Double Jeopardy - Memo 666 - C - SHB_68670.docx	ROSS-003278438-ROSS-003278439
People v. Seel, 34 Cal. 4th 535	135H+95.1	A mistrial does not constitute a termination of jeopardy, and accordingly double jeopardy does not arise from the legal necessity of a mistrial. U.S.C.A. Const.Amend. 5; West's Ann.Cal. Const. Art. 1, S 15.	"Does a mistrial constitute a termination of jeopardy, and accordingly double jeopardy arises from the legal necessity of a mistrial?"	Double Jeopardy - Memo 676 - C - KI_67889.docx	ROSS-003282775-ROSS-003282776
Scott v. State, 164 A.3d 177	135H+1	Although the Constitution of Maryland does not contain a counterpart to the Double Jeopardy Clause, the common law of Maryland provides for a prohibition on double jeopardy. U.S. Const. Amend. 5.	Does common law provide for prohibition on double jeopardy?	016070.docx	LEGALEASE-00165817-LEGALEASE-00165818
Stamps v. State, 151 So. 3d 248	135H+1	The double-jeopardy clause affords three protections: (1) protection from a second prosecution for the same offense after acquittal, (2) protection from a second prosecution for the same offense after conviction, and (3) protection from multiple punishments for the same offense. U.S.C.A. Const.Amend. 5; West's A.M.C. Const. Art. 3, S 22.	Does the Double Jeopardy Clause protect against a second prosecution for the same offense after acquittal?	Double Jeopardy - Memo 710 - C - RF_68673.docx	ROSS-003298653-ROSS-003298654
State v. Zeno, 155 So. 3d 4	135H+5.1	The double jeopardy clause prevents the State from punishing a defendant multiple times for the same offense and prevents a second prosecution for an offense following an acquittal or conviction. U.S.C.A. Const.Amend. 5.	Do Federal and state constitutions both provide that no person shall twice be put in jeopardy of life or liberty for the same offense?	Double Jeopardy - Memo 714 - C - RF_68674.docx	ROSS-003294585-ROSS-003294586
State v. Zeno, 155 So. 3d 4	135H+5.1	The double jeopardy clause prevents the State from punishing a defendant multiple times for the same offense and prevents a second prosecution for an offense following an acquittal or conviction. U.S.C.A. Const.Amend. 5.	Do Federal and state constitutions both provide that no person shall twice be put in jeopardy of life or liberty for the same offense?	016107.docx	LEGALEASE-00165855-LEGALEASE-00165856
State v. Schubert, 212 N.J. 295	135H+1	An individual's right against being placed in jeopardy twice for the same offense is both a common law and a constitutional right. U.S.C.A. Const.Amend. 5; N.J.S.A. Const. Art. 1, par. 11.	Is an individual's right against being placed in jeopardy twice for the same offense both a common law and a constitutional right?	016109.docx	LEGALEASE-00165857-LEGALEASE-00165858
Napoli v. Supreme Court, 40 A.D.2d 159	135H+95.1	Even where trial judge is overassiduous in granting a mistrial and his action premature, double jeopardy will not result, and such is the case even where the record does not clearly reveal the motivation of the trial judge in declaring the mistrial.	"Even where a trial judge is over assiduous in granting a mistrial and his action premature, will double jeopardy not result?"	Double Jeopardy - Memo 718 - C - BP_68039.docx	ROSS-003296426-ROSS-003296428
United States v. Lewis, 368 F.3d 1102	135H+96	Double jeopardy ordinarily does not apply if defendant obtains mistrial; courts presume that defendant, in seeking mistrial, gives up his or her right to verdict by jury. U.S.C.A. Const.Amend. 5.	"Do courts presume that a defendant, in seeking mistrial, gives up his or her right to verdict by jury?"	016205.docx	LEGALEASE-00165519-LEGALEASE-00165520
State v. Coppage, 34 Kan. App. 2d 776	135H+100.1	A judgment of acquittal, for purposes of double jeopardy, is a resolution, correct or not, of some or all of the factual elements of the offense charged. U.S.C.A. Const.Amend. 5; K.S.A. Const.Bill of Rights, S 10; K.S.A. 21-3108(1)(a).	"Is a judgment of acquittal, for purposes of double jeopardy, a resolution, correct or not, of some or all of the factual elements of the offense charged?"	016248.docx	LEGALEASE-00165571-LEGALEASE-00165572

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United States v. Cabrera, 804 F. Supp. 2d 1261	135H+100.1	A person who has been found not guilty by a jury may not thereafter be tried for the same offense without violating the Double Jeopardy Clause; this is because the law affords absolute finality to a jury's verdict of acquittal, no matter how erroneous its decision. U.S.C.A. Const.Amend. 5.	"Before the Double Jeopardy Clause is implicated, should some event, such as an acquittal, terminate the original jeopardy?"	016263.docx	LEGALEASE-00165587-LEGALEASE-00165588
People v. Tolliver, 347 Ill. App. 3d 203	135H+99	A deadlocked jury is a manifest necessity justifying the declaration of a mistrial and the retrial of the defendant.	Is a deadlocked jury a manifest necessity justifying the declaration of a mistrial and a retrial of a defendant?	Double Jeopardy - Memo 836 - C - TM_67951.docx	ROSS-003308931-ROSS-003308932
People v. Eroshevich, 214 Cal. App. 4th 1335	135H+1	The protection against double jeopardy generally precludes retrial for the same offense after a conviction or an acquittal. U.S.C.A. Const.Amend. 5; West's Ann.Cal. Const. Art. 1, S 15.	Does the protection against double jeopardy generally preclude retrial for the same offense after a conviction or an acquittal?	016416.docx	LEGALEASE-00165213-LEGALEASE-00165214
State v. Jenkins, 157 Or. App. 156	135H+1	Double Jeopardy Clause protects against a second prosecution after conviction for the same offense by the same sovereign. U.S.C.A. Const.Amend. 5.	Does double Jeopardy Clause protects against a second prosecution after conviction for the same offense by the same sovereign?	016471.docx	LEGALEASE-00165275-LEGALEASE-00165276
State v. Myers, 171 W. Va. 277	135H+1	Double Jeopardy Clause in West Virginia Constitution provides immunity from further prosecution where a court having jurisdiction has acquitted the accused, and it protects against a second prosecution for the same offense after conviction, and it also prohibits multiple punishments for the same offense. Const. Art. 3, S 5.	What immunity is provided by the double jeopardy clause?	Double Jeopardy - Memo 901 - C - RF_67690.docx	ROSS-003294051-ROSS-003294052
State v. Boggs, 741 N.W.2d 492	135H+1	The double jeopardy principle protects persons from prosecution for the same offense after conviction or acquittal, and against multiple punishments for the same offense. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 12.	Does the double jeopardy principle protect persons from prosecution for the same offense?	016553.docx	LEGALEASE-00165371-LEGALEASE-00165372
Com. v. Constant, 925 A.2d 810	135H+1	Once a defendant is placed in jeopardy for an offense, and jeopardy terminates with respect to that offense, the defendant may neither be tried nor punished a second time for the same offense. U.S.C.A. Const.Amend. 5.	Can a defendant be tried nor punished a second time for the same offense?	Double Jeopardy - Memo 941 - C - NE_67815.docx	ROSS-003283115-ROSS-003283116
State v. Gouleed, 720 N.W.2d 794	135H+1	Both the federal and state constitutions prohibit trying a criminal defendant twice for the same crime. U.S.C.A. Const.Amend. 4; M.S.A. Const. Art. 1, S 7.	Does both the federal and state constitutions prohibit trying a criminal defendant twice for the same crime?	Double Jeopardy - Memo 947 - C - KS_67821.docx	ROSS-003278844-ROSS-003278845
State v. Thomas, 124 So. 3d 1049	135H+1	The constitutional protection provided by the Double Jeopardy Clause prohibits (1) second prosecution for the same offense after acquittal; (2) second prosecution for the same offense after conviction; and (3) multiple punishments for the same offense. U.S.C.A. Const.Amend. 5.	What are the prohibitions prescribed by double jeopardy clause?	016597.docx	LEGALEASE-00165413-LEGALEASE-00165414
Smith v. Hedgpeth, 706 F.3d 1099	135H+5.1	Double Jeopardy Clause protects defendant against both successive punishments and successive prosecutions for the same criminal offense. U.S.C.A. Const.Amend. 5.	Does the Fifth Amendment's Double Jeopardy Clause preclude successive prosecutions and successive punishments for the same criminal offense?	016599.docx	LEGALEASE-00165415-LEGALEASE-00165416
In re Gateway Ethanol, 415 B.R. 486	50+1	Disclaimer of warranties of merchantability and fitness for a particular purpose are permitted in both sales and leases, for purposes of determining whether agreement is a true lease or a disguised sale/security agreement. UCC SS 2-316, 2A-214.	Are a disclaimer of warranties of merchantability and fitness for a particular purpose permitted in both sales and leases?	Secured Transactions - Memo 37 - C - PC_68066.docx	ROSS-003292805-ROSS-003292806

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State v. Woods, 23 Del. 499	230+21.4	A habitual offender hearing is not a trial and, therefore, legal principles such as res judicata, double jeopardy, and the right to a jury trial do not apply. U.S.C.A. Const.Amend. 5, 6.	Is a habitual offender hearing a trial?	014875.docx	LEGALEASE-00166242-LEGALEASE-00166243
Griffin v. State, 148 Ga. App. 311	135H+100.1	Federal double jeopardy jurisprudence bars a defendant from being prosecuted for an offense after being acquitted for the same offense. U.S.C.A. Const.Amend. 5.	Does federal double jeopardy jurisprudence bar a defendant from being prosecuted for an offense after being acquitted for the same offense?	Double Jeopardy - Memo 500 - C - SB_68279.docx	ROSS-003294732-ROSS-003294733
Stow v. Murashige, 389 F.3d 880	135H+100.1	A verdict of acquittal is final, ending a defendant's jeopardy, and is a bar to a subsequent prosecution for the same offense even when not followed by any judgment; this is true even though an acquittal may appear to be erroneous. U.S.C.A. Const.Amend. 5.	Is that a jury's verdict of acquittal bars a subsequent retrial on those same offenses perhaps the most fundamental rule in the history of double jeopardy jurisprudence?	015881.docx	LEGALEASE-00166244-LEGALEASE-00166245
State v. Broom, 146 Ohio St. 3d 60	135H+1	The Double Jeopardy Clause protects against three distinct evils: a second prosecution for the same offense after acquittal, a second prosecution for the same offense after conviction, and multiple punishments for the same offense. U.S.C.A. Const.Amend. 5.	What are the evils double jeopardy protects against?	015950.docx	LEGALEASE-00166309-LEGALEASE-00166310
State v. Lindell, 828 N.W.2d 1	135H+1	The Double Jeopardy Clause serves to create finality and to prevent prosecutorial overreaching. U.S.C.A. Const.Amend. 5.	Does the double Jeopardy Clause serve to create finality and to prevent prosecutorial overreaching?	Double Jeopardy - Memo 657 - C - KG_68434.docx	ROSS-003281300
Borough of Paramus v. Cty. of Bergen, 27 N.J. Tax 215	371+2311	Claims for tax exemption have to stand scrutiny to show that they serve a public purpose.	Should claims for tax exemption stand scrutiny to show that they serve a public purpose?	Taxation - Memo 1286 - C - MV.docx	LEGALEASE-00056082-LEGALEASE-00056083
Station #2 v. Lynch, 695 S.E.2d 537	13+27(1)	An omission or non-performance of a duty may sound both in contract and in tort, but only where the omission or non-performance of the contractual duty also violates a common law duty.	Can an omission or non-performance of a duty sound both in contract and in tort?	Action - Memo 962 - C _13NsA5Cg_sT17x9rGexl9M9UXPrpEA2pL.docx	ROSS-000000051-ROSS-000000052
Wells Fargo Bank, N.A. v. Fifth Third Bank, 931 F. Supp. 2d 834	172H+926	Under Ohio law, lending bank's gross negligence claim failed to allege actual damages beyond losses already attributed to lending bank's breach of contract claim against bank which administered a joint line of credit on behalf of both banks, as required to bring a gross negligence tort claim in addition to a breach of contract claim, where the only additional damages associated with the gross negligence claims were additional punitive damages.	Should a tort claim arising out of a breach of contract include actual damages attributable to the wrongful acts of the alleged tortfeasor which are in addition to those attributable to the breach of the contract?	Action - Memo 973 - C _1hiAkH15dZ9pNcJ9WDcbFGIjD-ZAzEI_.docx	ROSS-000000071-ROSS-000000072
Neptune Estates v. Big Poll & Son Const., 39 Misc. 3d 649	13+27(1)	An action based upon an alleged injury to property is one sounding in tort.	Is an action based upon an alleged injury to property one sounding in tort?	Action - Memo 974 - C _1Qi1V_tPP0apKSlqFI2H1u5OxMQT6xypY.docx	ROSS-000000073
Choharis v. State Farm Fire & Cas. Co., 961 A.2d 1080	217+3379	The duty which is owed to an insured for failure to settle a claim sounds in contract and not in tort.	Does the duty which is owed to an insured for failure to settle a claim sound in contract and not in tort?	Action - Memo 983 - C _1LYaYXEhbC00LMXaaXd mZ-3XyKfa5XEh5.docx	ROSS-000000090-ROSS-000000091

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Tamari v. Bache & Co. (Lebanon) S.A.L., 730 F.2d 110	83H+6.1	Under both "conduct" and "effects" tests for determining jurisdictional questions arising from transnational disputes, district court had subject matter jurisdiction over cause of action under Commodity Exchange Act arising from trading on United States exchanges, even though parties were nonresident aliens and contacts between them occurred in foreign country since transmission of commodity futures orders to United States constituted "conduct" within United States and alleged fraud implicated integrity of American market. Commodity Exchange Act, SS 4b, 4c, as amended, 7 U.S.C.A. SS 6b, 6c.	"Under the effects test to determine whether Commodity Exchange Act applies to foreign agents, what do the courts look to?"	013619.docx	LEGALEASE-00167103-LEGALEASE-00167104
United States v. Hanahan, 798 F.2d 187	135H+31	Protections of the double jeopardy clause against multiple punishment or repeated prosecutions for same offense are not triggered by revocation of parole. U.S.C.A. Const.Amend. 5.	Does a double jeopardy clause protect a defendant in a criminal proceeding against multiple punishment or repeated prosecutions for the same offense?	015793.docx	LEGALEASE-00166532-LEGALEASE-00166534
In re Rigg, 198 B.R. 681	349A+10	Lease agreement can be construed to create security interest only if agreement prohibits lessee from terminating lease. V.T.C.A., Bus. & C. S 1.201(37).	Can a lease agreement be construed to create a security interest only if an agreement prohibits a lessee from terminating lease?	Secured Transactions - Memo 129 - C - NE_68701.docx	ROSS-003295323
Lombard v. Station Square Inn Apartments Corp., 94 A.D.3d 717	349A+2	Reservation of title under a lease does not create a security interest unless the parties so intended. McKinney's Uniform Commercial Code S 9-610(a).	Does reservation of title under a lease not create a security interest unless the parties so intended?	042725.docx	LEGALEASE-00166743-LEGALEASE-00166744
Union Oil Co. of Cal. v. State Bd. of Equalization, 60 Cal. 2d 441	371+2311	Privately-held leasehold interests in publicly-owned real property are subject to taxation, while public ownership interest is exempt.	Does privately-held leasehold interests in public-owned real property subject to taxation?	Taxation - Memo 1291 - C - KAD_68505.docx	ROSS-003307529-ROSS-003307530
Burlington N. v. Flathead Cty., 176 Mont. 9	371+2016	In order to have a validly authorized tax, there is no requirement that the Legislature use language "is hereby authorized to levy a tax."	"Is there any requirement that the Legislature use the language ""is hereby authorized to levy a tax."" in order to validly authorize a tax?"	Taxation - Memo 1342 - C - SM.docx	LEGALEASE-00056696-LEGALEASE-00056697
Moore v. Sch. Dist. of Pittsburgh, 338 Pa. 466	371+2016	The delegation of legislative power to tax is not unlawful where Legislature, in connection with the delegation of such power, fixes the maximum limit of the tax.	Is the delegation of legislative power to tax unlawful where Legislature fixes the maximum limit of the tax?	Taxation - Memo 1364 - C - SD_68651.docx	ROSS-003280346-ROSS-003280347
Couchman v. Univ. of Cent. Florida, 84 So. 3d 445	141E+997	Administrative Procedure Act (APA) only applies to a state university when the university is acting pursuant to statutory authority from the legislature. West's F.S.A. SS 120.52(1, 6), 1001.706(2)(b).	Does the APA apply to a state university when the university is acting pursuant to statutory authority derived from the legislature?	Education - Memo #303 - C- ATS_65661.docx	ROSS-003279640-ROSS-003279641
Bridgeport Music v. Diamond Time, Ltd., 371 F.3d 883	156+52(1)	Application of equitable estoppel should be premised on defendant's improper conduct as well as plaintiff's actual and reasonable reliance thereon.	Is the application of equitable estoppel premised on misconduct by the defendant?	017738.docx	LEGALEASE-00167332-LEGALEASE-00167333
Westmoreland Coal Co. v. Fed. Mine Safety & Health Review Comm'n, 606 F.2d 417	260+92.5(2)	The purpose of Federal Coal Mine Health and Safety Act is to protect the safety of the miner and Act is to be interpreted liberally to effect that purpose. Federal Coal Mine Health and Safety Act of 1969, SS 2 et seq., 113(d)(1) as amended 30 U.S.C.A. SS 801 et seq., 823(d)(1).	Is the purpose of the Federal Coal Mine Health and Safety Act to protect the safety of the miner?	021223.docx	LEGALEASE-00167338-LEGALEASE-00167339

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Schlegel v. Hough, 182 Or. 441	260+38(13)	In suit to quiet title to an unpatented placer mining claim, defendant was required in pleading to negative the performance of \$100 worth of improvements and prove the lack thereof to establish claimed forfeiture, and allegation only that plaintiff during year involved had not done any work or labor constituting assessment work or annual labor as required by law for mining claims was insufficient. 30 U.S.C.A. S 28.	How much labor does the law require to be performed upon each mining claim each year?	021624.docx	LEGALEASE-00167340- LEGALEASE-00167342
United States v. Pennell, 144 F. Supp. 317	377E+12(2)	The test of whether words or phrases are harmless or threatening is the context in which they are used, measured by common experience of the society in which they are used. 18 U.S.C.A. S 875(a-d).	What is the test for whether words or phrases are harmless or threatening?	046766.docx	LEGALEASE-00167349- LEGALEASE-00167351
State v. Kilburn, 151 Wash. 2d 36	3.77E+25	One who writes a threat in a personal diary or mutters a threat unaware that it might be heard does not knowingly threaten, and therefore cannot be convicted under felony harassment statute. West's RCWA 9A.46.020.	"If a defendant mutters a threat unaware that it might be heard, is he guilty of knowingly threatening someone?"	046800.docx	LEGALEASE-00167368- LEGALEASE-00167370
Int'l Ribbon Mills, Ltd. v. Arjan Ribbons, 36 N.Y.2d 121	38+90	Assignee never stands in any better position than his assignor; he is subject to all the equities and burdens which attach to property assigned because he receives no more and can do no more than his assignor.	Does an assignee stand in a better position than that of the assignor?	07345.docx	LEGALEASE-00077617- LEGALEASE-00077619
Commerce Tr. Co. v. Air 1st Aviation Companies, 366 Ill. App. 3d 135	267+34	It is the responsibility of the party filing a motion to request the trial court to rule on the motion, and when no ruling has been made on a motion, it is presumed to have been abandoned absent circumstances indicating otherwise.	"When a party moves to strike an affidavit will its failure to obtain a ruling on its motion to strike, operate as a waiver of the objections to the affidavit?"	06287.docx	LEGALEASE-00077835- LEGALEASE-00077836
Phillips Dev. & Realty v. LJA Eng'g, 499 S.W.3d 78	106+39	A trial court has discretion to allow the party opposing a special appearance to contest personal jurisdiction to file late affidavits or to enter other orders as are just. Tex. R. Civ. P. 120a(3).	Does trial court have the discretion to allow late affidavits?	03745.docx	LEGALEASE-00078287- LEGALEASE-00078289
Lee v. Bankers Tr. Co., 166 F.3d 540	237+1.6	Under New York choice-of-law rules in defamation cases, the state of the plaintiff's domicile will usually have the most significant relationship to the case, and its law will therefore govern.	What is the choice of law rule in defamation law?	05851.docx	LEGALEASE-00080853- LEGALEASE-00080855
United States v. S. California Edison Co., 300 F. Supp. 2d 964	145+13	Under California law, operation of a power plant was not an ultrahazardous activity for the purposes of strict liability doctrine.	Are the activities of power plants classified as ultrahazardous for the purposes of the strict liability doctrine?	13349.docx	LEGALEASE-00081419- LEGALEASE-00081420
People v. M.D., 231 Ill. App. 3d 176	352H+59(2)	It is irrational to imply consent by a spouse to a sexual assault, which is generally a violent, degrading act that results in severe physical and psychological harm. S.H.A. Const. Art. 1, S 2.	Is there an implied consent to sex among spouses?	00933.docx	LEGALEASE-00083692- LEGALEASE-00083693
Pilcher v. Direct Equity Lending, 189 F. Supp. 2d 1198	95+98	A void act has no legal force or effect; a voidable act is not void in itself but may be declared void usually at the option of an affected party.	Can a voidable act be made void at the option of the affected party?	Consumer Credit - Memo 27 - RK.docx	ROSS-003329111-ROSS- 003329112
W. Point-Pepperell v. Donovan, 689 F.2d 950	349+200	Standards for reviewing magistrate's finding of probable cause are same for both administrative and criminal warrants.	Are the standards for reviewing a magistrates finding of probable cause same for both administrative and criminal warrants?	05120.docx	LEGALEASE-00084233- LEGALEASE-00084234
W. Point-Pepperell v. Donovan, 689 F.2d 950	349+200	Standards for reviewing magistrate's finding of probable cause are same for both administrative and criminal warrants.	Are the standards for reviewing a magistrates finding of probable cause same for both administrative and criminal warrants?	05594.docx	LEGALEASE-00084254- LEGALEASE-00084255

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Power Oil Co. v. Cochran, 138 Neb. 827	92+2500	The wisdom of Legislature in intrusting broad powers in division of motor fuels in department of agriculture and inspection with respect to determining program for inspection of refined petroleum products is not a matter of judicial determination, since courts are not arbiters of legislative wisdom but function as a check upon unauthorized and unconstitutional assumptions of power, and in an action attacking validity of statute as providing for excessive inspection fees, only question for determination by court is whether the fees are reasonably necessary to defray expense of inspection. Laws 1933, c. 116, S 3; Laws 1939, c. 85.	Will courts interfere in charging inspection fees?	06447.docx	LEGALEASE-00084378- LEGALEASE-00084379
State v. Whitwell, 215 S.W.3d 760	110+1023(3)	A ruling in limine is interlocutory only and is subject to change during the course of trial; the motion in limine, in and of itself, presents nothing for appeal.	Is a ruling in limine interlocutory only and subject to change during the course of the trial?	05221.docx	LEGALEASE-00084919- LEGALEASE-00084920
United States v. Aguasvivas-Castillo, 668 F.3d 7	174+1.3	In challenging disproportionality of a forfeiture, it is the defendant's burden, not the government's, to raise the issue of future deprivation of livelihood. U.S.C.A. Const.Amend. 8.	Is it the defendants burden to raise the issue of future deprivation of livelihood to challenge the disproportionality of forfeiture?	05828.docx	LEGALEASE-00089182- LEGALEASE-00089184
Tisdale v. Stone & Webster Eng'g Corp., 595 F. Supp. 1016	413+1	Different workmen's compensation schemes enacted by the several states are complex and best administered by the individual state's agencies or courts.	"Who should administer workmens compensation laws, agencies or courts? "	02034.docx	LEGALEASE-00092184- LEGALEASE-00092185
Wilson v. Harris, 304 S.W.3d 824	307A+561.1	A complaint is subject to dismissal for failure to state a claim if an affirmative defense clearly and unequivocally appears on the face of the complaint. Rules Civ.Proc., Rule 12.02(6).	Will a defense be available on a motion to dismiss for failure to state a claim?	11345.docx	LEGALEASE-00094159- LEGALEASE-00094160
In re Bycura, 540 B.R. 211	135+1	Under South Carolina law, party's "residence" is the place where he actually lives or has his home, his dwelling place or place of habitation, his abode, house where his home is, or dwelling house.	"Is the place where a party lives or has his home, a party's residence under State law? "	10794.docx	LEGALEASE-00094327- LEGALEASE-00094328
Hill v. John Chezik Imports, 797 S.W.2d 528	413+2	Workers' Compensation Act is substitutional, supplanting all other common-law rights of an employee if the Act applies. V.A.M.S. S 287.010 et seq.	"If the Workers' Compensation Act applies, is the act substitutional, supplanting all other common-law rights of an employee? "	11456.docx	LEGALEASE-00094545- LEGALEASE-00094546
Long v. Silver, 248 F.3d 309	25T+179	A non-signatory may invoke an arbitration clause under ordinary state-law principles of agency or contract.	Can a non-signatory invoke an arbitration clauseunder ordinary state-law principles of agency or contract?	10747.docx	LEGALEASE-00094571- LEGALEASE-00094572
New Bar Partnership v. Martin, 729 S.E.2d 675	307A+561.1	A complaint may be properly dismissed for absence of law to support a claim, absence of facts sufficient to make a good claim, or the disclosure of some fact that necessarily defeats the claim. Rules Civ.Proc., Rule 12(b)(6).	When can a complaint be properly dismissed?	11266.docx	LEGALEASE-00094651- LEGALEASE-00094652
State ex rel. Blankenship v. Richardson, 196 W. Va. 726	92+961	It is duty of legislature to consider facts, establish policy, and embody that policy in legislation; it is duty of court, however, to determine constitutionality of legislation.	"Does the Court sit as a superlegislature, or is it the legislatures duty to consider the facts, establish, policy, and embody the policy in legislation? "	11487.docx	LEGALEASE-00094816- LEGALEASE-00094817
Lewis v. Morgan, 79 So. 3d 926	307A+561.1	Affirmative defense appearing on the face of a complaint can be grounds for a motion to dismiss. West's F.S.A. RCP Rules 1.110(d), 1.140(b).	Will an affirmative defense appearing on the face of a complaint be a ground for motion to dismiss?	10222.docx	LEGALEASE-00095060- LEGALEASE-00095061
Leetaru v. Bd. of Trustees of Univ. of Illinois, 2015 IL 117485	307A+686.1	A motion to involuntarily dismiss based upon certain defects or defenses admits the sufficiency of the complaint, but asserts affirmative matter that defeats the claim. S.H.A. 735 ILCS 5/2-619.	Will a motion to involuntarily dismiss assert affirmative matter that defeats the claim?	10204.docx	LEGALEASE-00095278- LEGALEASE-00095279

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Treaster v. Betts, 324 S.W.3d 487	307A+561.1	A pre-trial dismissal based on an affirmative defense must be granted under the standards of summary judgment.	Will a pre-trial dismissal based on affirmative defense be granted under the standards of summary judgement?	10306.docx	LEGALEASE-00095365-LEGALEASE-00095366
Giraldo v. Cossin, 399 So. 2d 540	307A+590.1	Action cannot advance toward trial unless court has jurisdiction over party sued.	Can action advance toward trial unless a court has jurisdiction over a party sued?	09872.docx	LEGALEASE-00096004-LEGALEASE-00096005
Brown v. Kidney & Hypertension Assocs., L.L.P., 5 So. 3d 258	307A+590.1	Mere contact with opposing counsel is insufficient to prevent abandonment of an action; a litigant must take some step in the prosecution or defense of the case in the trial court that hastens the case toward judgment. LSA-C.C.P. art. 561.	Is mere contact with opposing counsel insufficient to prevent abandonment of an action?	09654.docx	LEGALEASE-00096312-LEGALEASE-00096313
Egan v. Moore, 36 Misc. 2d 967	141E+1015	The state university is an integral part of the government of the state and as such is subject to immediate control of the board of trustees. Education Law, SS 101, 201, 207, 352, 354, 355; Laws 1962, c. 930; Const. art. 5, S 4; art. 11, S 2.	Is a university subject to the control of the board of regents?	05283.docx	LEGALEASE-00096660-LEGALEASE-00096661
Frazier-Hampton v. Hesterly, 89 Ark. App. 211	200+6(1)	Public road does not have to be established by formal order of county court; instead, prescriptive right-of-way can be established by county working road for period in excess of seven years.	How can a public road be established?	05290.docx	LEGALEASE-00096696-LEGALEASE-00096697
State v. Gray, 292 N.C. 270	352H+69	When deadly weapon is displayed in threatening manner in course of single transaction of forcible rape or sodomy, offense is aggravated rape or aggravated sodomy. V.A.M.S. SS 566.030, 566.060.	Will it become aggravated rape if the actor used a deadly weapon during the offense?	042906.docx	LEGALEASE-00121435-LEGALEASE-00121436
Brown v. Brown, 110 Me. 280	221+136	Every state or nation possesses exclusive sovereignty and jurisdiction within its own territory.	Does every state or nation possesses exclusive sovereignty and jurisdiction within its own territory?	019960.docx	LEGALEASE-00122840-LEGALEASE-00122841
Jovic v. L-3 Servs., 69 F. Supp. 3d 750	221+387	The act of state doctrine is an affirmative defense, on which the defendant carries the burden of proof.	Is the act of state doctrine an affirmative defense on which the defendant carries the burden of proof?	International Law - Memo # 139 - C - SA.docx	ROSS-003301455-ROSS-003301456
Brinkmann v. Common Sch. Dist. No. 27 of Gasconade Cty., 238 S.W.2d 1	13+61	A cause of action accrues at time when its owner may legally invoke aid of a proper tribunal to enforce his demand; when he has a present right to institute and maintain an action or suit.	Does a cause of action accrue at the time when its owner has a present right to institute and maintain an action or suit?	006359.docx	LEGALEASE-00124297-LEGALEASE-00124298
Honduras Aircraft Registry Ltd. v. Gov't of Honduras, 883 F. Supp. 685	221+342	District court can only reach decision regarding whether to decline inquiry into validity of foreign sovereign's acts, under "act of state" doctrine, after considering international comity, respect for sovereignty of foreign nations on their own territory, and avoidance of embarrassment to the Executive Branch in its conduct of foreign affairs.	What are some of the reasons underlying the act of state doctrine?	020869.docx	LEGALEASE-00124870-LEGALEASE-00124871
City of Wichita v. Denton, 296 Kan. 244	307A+3	The purpose of an order in limine is to assure a fair and impartial trial to all parties by excluding from trial inadmissible evidence, prejudicial statements, and improper questions.	Is a motion in limine used to provide an impartial trial?	024342.docx	LEGALEASE-00125205-LEGALEASE-00125206
Journal-Gazette Co. v. Bandido's, 712 N.E.2d 446	237+49	Under the "fair index rule," if newspaper headline is a fair index of an accurate article, it is not actionable; if it is not a fair index, then the headline must be examined independently to determine whether it is actionable under general principles of libel.	When are headlines not actionable under the principles of libel?	021106.docx	LEGALEASE-00125481-LEGALEASE-00125482

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Rogers v. United States, 124 Fed. Cl. 757	34+2	Military departments, like other federal agencies, are bound by their own regulations; even when Congress has given the military discretion in conducting its affairs, the military is bound to follow its own procedural regulations should it choose to promulgate them.	Is the military bound to follow its own procedural regulations?	008786.docx	LEGALEASE-00126288-LEGALEASE-00126289
Laidlaw Waste Sys. v. Bay Cities Servs., 43 Cal. App. 4th 630	1.41E+30	Public schools of state are matter of statewide, rather than local or municipal, concern.	"Are public schools of a state matter of statewide, rather than local or municipal, concern?"	Education - Memo # 35 - C - SU.docx	ROSS-003285995-ROSS-003285997
United States v. Gundy, 842 F.3d 1156	67+2	The generic, contemporary definition of burglary consists of these elements: (1) an unlawful or unprivileged entry into, or remaining in, (2) a building or other structure, (3) with intent to commit a crime therein.	What are the elements of burglary?	Burglary - Memo 8 - RK.docx	ROSS-003317045-ROSS-003317046
Ex parte Diamond, 596 So. 2d 423	401+5.1	"Subject matter" within meaning of venue statute for actions where real estate is subject matter refers to nature of cause of action and of relief sought. Code 1975, S 6-3-2.	Does subject matter refer to the nature of the cause of action and the nature of the relief sought?	047468.docx	LEGALEASE-00128855-LEGALEASE-00128856
Memphis & C. Ry. Co. v. Pace, 282 U.S. 241	200+121	Construction and maintenance of serviceable roads is public purpose for which property may be taxed by state.	Is the construction and maintenance of serviceable roads a typical purpose for which property may be taxed by the state?	018784.docx	LEGALEASE-00129049-LEGALEASE-00129050
Second Nat. Bank of Paintsville v. Meek Appliance Co., 244 S.W.2d 769	172H+593	Bank which paid check to payee despite receipt and acquiescence in stop-payment order from drawer was properly adjudged liable for net loss caused to drawer of check. KRS 287.405.	Is a bank liable for payment of a check after receiving a stop payment order?	009385.docx	LEGALEASE-00129181-LEGALEASE-00129182
State v. Perez, 147 Conn. App. 53	63+11	In a bribery case involving a public servant, if direct evidence of the requisite intent is unavailable, it may be established by circumstantial evidence; the quid pro quo requirement is satisfied as long as the evidence shows a course of conduct of favors and gifts flowing to a public official in exchange for a pattern of official actions favorable to the donor. C.G.S.A. S 53a-148(a).	Can the requisite corrupt intent in a bribery case be established by circumstantial evidence if direct evidence is unavailable?	011095.docx	LEGALEASE-00130539-LEGALEASE-00130540
Stegmaier v. Trammell, 597 F.2d 1027	79+6	Even though, under the Alabama judicial scheme, deputy circuit clerk did not stand in a confidential relationship to a policy maker or to a policy-making process, deputy circuit clerk fell within the "confidential employee" exception to the general proscription of patronage dismissals where, under Alabama statutes, deputy clerks were empowered to conduct all business which the elected clerk was authorized to conduct and where the clerk was statutorily subject to civil liability and fines for failure to perform statutory duties, thus making it necessary for circuit clerk to select a deputy in whom he has total trust and confidence and from whom he can expect undivided loyalty. Code of Ala.1975, SS 12-17-93, 12-17-93(2), 12-17-94, 12-17-94(b).	Can a deputy circuit clerk who is in a confidential relationship to a policymaker be discharged solely upon the basis of political affiliation?	013396.docx	LEGALEASE-00131229-LEGALEASE-00131230
Nw. Fire Dist. v. U.S. Home of Arizona Const. Co., 213 Ariz. 489	371+2001	Assessment imposed upon a broad class of parties is more likely to be a tax than an assessment imposed upon a narrow class.	Is an assessment imposed upon a broad class of parties more likely to be a tax than an assessment imposed upon a narrow class?	Taxation - Memo # 214 - C - Kl.docx	ROSS-003288259-ROSS-003288260

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Bank of New York Mellon v. Poker Run Acquisitions, 208 So. 3d 199	307A+517.1	A voluntary dismissal divests the trial court of continuing jurisdiction over a case; however, where the parties, prior to dismissal, present a settlement agreement to the trial court for approval and the trial court enters an order of dismissal predicated on the parties' settlement agreement, the trial court retains jurisdiction to enforce the terms of the settlement agreement. West's F.S.A. RCP Rule 1.420(a).	Does a voluntary dismissal divest the trial court of continuing jurisdiction over a case?	Pretrial Procedure - Memo # 2486 - C - PC.docx	ROSS-003288273-ROSS-003288274
Freeman v. Leader Nat. Ins. Co., 58 S.W.3d 590	307A+517.1	After a case is dismissed, the trial court may take no further action, and any step attempted is a nullity.	"After a voluntary dismissal is filed, may the circuit court take no further steps as to the dismissed action, and any step attempted is viewed as a nullity?"	027785.docx	LEGALEASE-00132264-LEGALEASE-00132265
Jamison v. Lloyd, 51 Mich. App. 570	307A+749.1	Pretrial summary issued by court after pretrial conference controlled subsequent course of litigation. GCR 1963, 301.3.	Does a pretrial summary issued by a court after a pretrial conference control a subsequent course of litigation?	028112.docx	LEGALEASE-00132529-LEGALEASE-00132530
Wheeler v. Del Duca, 151 A.D.3d 1005	386+10	The essential elements of a cause of action sounding in trespass are the intentional entry into the land of another without justification or permission.	What are the elements of a cause of action sounding in trespass?	047340.docx	LEGALEASE-00133436-LEGALEASE-00133437
Paniagua v. Orange Cty. Fire Auth., 149 Cal. App. 4th 83	307A+517.1	When an action is wilfully dismissed by the plaintiff against a sole defendant, it is as though no action had ever been filed.	"When an action is wilfully dismissed by the plaintiff against a sole defendant, is it as though no action had ever been filed? "	028320.docx	LEGALEASE-00133702-LEGALEASE-00133703
Arena v. Borough of Jamesburg, Middlesex Cty., 309 N.J. Super. 106	307A+517.1	Voluntary dismissal without prejudice leaves situation as if action had never been filed.	Does a voluntary dismissal without prejudice leave the situation as if the action had never been filed?	028326.docx	LEGALEASE-00133710-LEGALEASE-00133712
Fisher v. Carolina Door Prod., 286 S.C. 5	83E+670	Antedating of promissory note does not affect its negotiability, and time when antedated note is payable is determined by stated date if instrument is payable at fixed period after date. Code 1976, SS 36-1-201(31), 36-3-114.	Is a promissory note invalidated by the virtue of being antedated?	010236.docx	LEGALEASE-00134726-LEGALEASE-00134727
Merrick v. Britton, 26 Ark. 496	307A+723.1	Where a party, for any good cause, is unprepared to go to trial, and fails by motion to postpone or continue, to show the fact to the court, at the proper time, he waives his want of preparation, and all right to afterwards object.	Should a party who is unprepared to go to trial move for a continuance at the proper time?	030423.docx	LEGALEASE-00136160-LEGALEASE-00136161
Wehe v. Montgomery, 711 F. Supp. 1035	308+99	"Unauthorized signature" is one made without actual, implied or apparent authority, and any unauthorized signature is wholly inoperative unless principal certifies it or is precluded from denying it.	What is an unauthorized signature?	Principal and Agent - Memo 78 - KC.docx	ROSS-003290111-ROSS-003290112
Shaffer v. Superior Court, 33 Cal. App. 4th 993	92+1229	Limited protections accorded, in connection with discovery, for individual's privacy interests extend both to individual's personal and financial matters. West's Ann.Cal. Const. Art. 1 S 1; West's Ann.Cal.C.C.P. S 2017(a).	Do limited protections accorded for an individual's privacy interests extend both to an individual's personal and financial matters?	Pretrial Procedure - Memo # 4996 - C - VA.docx	ROSS-003288711-ROSS-003288712
Citizens Nat. Bank v. Waltman, 344 So. 2d 725	8.30E+274	Execution of a renewal note with full knowledge of the facts constituting defense to the original note waives such defense as to the renewal.	Does execution of a renewal note with full knowledge of the facts constituting a defense to the original note waive all defenses?	010492.docx	LEGALEASE-00140960-LEGALEASE-00140961
Blanchard v. Ashby Const. Co., 95 So. 2d 670	200+175	A person who attempts to make a left turn or attempts to turn from a direct line on public highways must ascertain before turning that turn can be made safely. LSA-R.S. 32:235, subd. A, 32:236, subd. A.	How should a person making a left turn on a highway proceed?	019023.docx	LEGALEASE-00141571-LEGALEASE-00141572

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Lee v. Atl. Coast Line R. Co., 145 Fla. 618	371+2005	Statutory taxing power is as potent to taxing districts as it is to the state, counties, municipalities, unless restrained by a paramount law. Const. art. 9, SS 1, 10, and S 6, as amended; art. 12, SS 10, 11, 17.	Is the statutory taxing power as potent to taxing districts as it is to the state?	045536.docx	LEGALEASE-00141799- LEGALEASE-00141800
United States v. Perdiz, 256 F. Supp. 805	63+3	Arresting officers' failure to advise accused of his rights to counsel and to remain silent did not render accused immune from prosecution for attempt to bribe arresting officers after arrest.	Does arresting officers' failure to advise accused of his rights to counsel and to remain silent render accused immune from prosecution for attempt to bribe arresting officers after arrest?	012048.docx	LEGALEASE-00141844- LEGALEASE-00141845
Michael v. Matheis, 77 Mo. App. 556	307A+74	Where a certificate to a deposition taken before a commissioner, under Rev.St.1889, S 4448, V.A.M.S. S 492.220, is authenticated by the private seal or scrawl of the commissioner, it is sufficient; he not being a public official and having no official seal.	"Where a certificate to a deposition taken before a commissioner is authenticated by the private seal or scrawl of the commissioner, is it sufficient?"	032651.docx	LEGALEASE-00143307- LEGALEASE-00143308
Com. v. Kelley, 444 Pa. Super. 377	352H+21(4)	Construing "sexual intercourse" according to the fair import of its terms, digital penetration cannot be considered intercourse within its ordinary meaning. 18 Pa.C.S.A. S 3101.	Can digital penetration be considered sexual intercourse?	043070.docx	LEGALEASE-00143390- LEGALEASE-00143391
Briceno v. State, 580 S.W.2d 842	211+1585	The elements of offenses of indecency with a child and indecent exposure are identical except that indecency with a child requires defendant to know that a child is present, whereas indecent exposure requires that defendant is reckless as to presence of other person; proof of the higher degree of culpability, knowing, is proof of lower culpable mental state, reckless, and hence proof that a child is present necessarily would be proof of presence of a person, so that indecency with a child requires, in addition to proving all the elements of indecent exposure, a showing of higher culpable mental state and that the person is a child. V.T.C.A., Penal Code SS 21.08, 21.11(a)(2).	Are the elements of indecency with a child and indecent exposure identical?	043115.docx	LEGALEASE-00143494- LEGALEASE-00143495
Gordon v. Gatlin Commons Prop. Owners Ass'n, 199 So. 3d 1120	307A+746	Trial court failed to analyze six Kozel factors when choosing dismissal as sanction for failure to comply with amended pre-trial order in plaintiff's personal injury action against property owners association, warranting remand; trial court found only that plaintiff failed to disclose her expert witness list, expert reports, expert opinion summaries, fact witnesses, and failure to appear at docket call, and then found that plaintiff's multiple violations of amended pre-trial order were willful or contumacious.	"Before a court may dismiss a cause as a sanction for counsel's noncompliance with court order, should it first consider six factors, and set forth explicit findings of fact in the order that imposes the sanction of dismissal?"	034497.docx	LEGALEASE-00144033- LEGALEASE-00144034
Katsoris v. WME IMG, 237 F. Supp. 3d 92	25T+182(1)	There is nothing irrevocable about an agreement to arbitrate, and under a variety of circumstances one party may waive or destroy by his conduct his right to insist upon arbitration.	Is there anything irrevocable about an agreement to arbitrate?	Alternative Dispute Resolution - Memo 783 - RK_58116.docx	ROSS-003293850-ROSS-003293852
United States v. Murphy, 556 F. Supp. 2d 1232	3.77E+03	A person may intimidate another without intentionally making a direct or even veiled threat.	Can you intimidate someone without actually making a direct or even veiled threat?	047106.docx	LEGALEASE-00149629- LEGALEASE-00149630
State v. Smith, 10 R.I. 258	18+4	Under Rev.St. c. 829, S 4, providing for punishment of one selling adulterated milk, the seller of milk takes upon himself the risk of knowing that the article which he offers for sale is not adulterated, rendering it unnecessary to show a guilty intent or knowledge.	"In a prosecution for adulteration, is it the responsibility or the risk of the vendor or a seller to know about the articles he sells or deals with?"	006564.doc	LEGALEASE-00149939- LEGALEASE-00149940

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Admiral Oriental Line v. United States, 86 F.2d 201	308+85	An agent, compelled to defend a baseless suit, grounded on acts performed in his principal's business, may recover from principal expenses of his defense.	Can an Agent recover expenses of a suit?	042040.docx	LEGALEASE-00152247-LEGALEASE-00152248
Luna v. United Parcel Serv., 2003 WL 139592	307A+693.1	Dismissal for want of prosecution does not preclude the filing of another suit; therefore, dismissing a case with prejudice for want of prosecution is improper. Vernon's Ann.Texas Rules Civ.Proc., Rule 165a.	Does a dismissal for want of prosecution not preclude the filing of another suit?	025080.docx	LEGALEASE-00156817-LEGALEASE-00156818
Sykes v. State, 578 N.W.2d 807	3.77E+48	Effect of a terroristic threat is not an essential element of the offense, but the victim's reaction to the threat is circumstantial evidence relevant to the element of intent. M.S.A. S 609.713, subd. 1.	Is the effect of a terroristic threat an essential element of the offense?	Threats - Memo #163 - C - LB_62718.docx	ROSS-003284116-ROSS-003284117
Crist v. Ervin, 56 So. 3d 745	92+2317	A statutory filing fee is not considered an unconstitutional tax repugnant to court access if the fee is used to fund the costs of the administration of justice. West's F.S.A. Const. Art. 1, S 21.	Is filing fee an unconstitutional tax?	Taxation - Memo # 1028 - C - JL_63305.docx	ROSS-003294273-ROSS-003294274
Nat'l Bank of Hyde Park in Chicago v. Isaacs, 27 Ill. 2d 205	371+3661	The retailers' occupation tax is levied on seller, and custom of passing on burden to buyer by means of price increase does not alter its nature, but it is the legal incidence of the tax that controls. S.H.A. ch. 120, S 441.	Is the Retailer's Occupation Tax a tax on the seller?	046257.docx	LEGALEASE-00159887-LEGALEASE-00159888
Newman v. Mayor of City of Newport, 73 R.I. 385	200+80	The public acquires only an easement in legally established public highway, the fee in the soil remaining in owners of adjoining lands.	Does the public acquire an easement by the legal establishment of a public highway?	018883.docx	LEGALEASE-00161815-LEGALEASE-00161816
United States v. Lemons, 67 F. Supp. 985	8.30E+11	The law of the state in which a check or negotiable instrument is executed determines the formality and essential validity thereof, and the incidents of the obligation of such instrument.	Which law determines the incidents of obligation of a check?	Bills and Notes - Memo 1360 - RK_66262.docx	ROSS-003322460-ROSS-003322461
People v. Hamil, 20 Ill. App. 3d 901	352H+190	Intent to commit rape may be inferred from conduct of accused, character of assault, acts done and time and place of occurrence, as well as from words spoken. S.H.A. ch. 38, S 8-4.	Can intent to commit rape be inferred from the defendants words?	043131.docx	LEGALEASE-00164074-LEGALEASE-00164075
Ex Parte Victorick, 453 S.W.3d 5	135H+56.1	With respect to a jury trial, jeopardy attaches, for double jeopardy purposes, when the jury is empaneled and sworn, and for a bench trial, jeopardy attaches when the defendant pleads to the charging instrument. U.S. Const. Amend. 5.	Does a jeopardy attach when the defendant pleads to the charging instrument?	016671.docx	LEGALEASE-00165151-LEGALEASE-00165152
Burlington N. v. Flathead Cty., 176 Mont. 9	371+2016	In order to have a validly authorized tax, there is no requirement that the Legislature use language "is hereby authorized to levy a tax."	"Is there any requirement that the Legislature use the language ""is hereby authorized to levy a tax"" in order to validly authorize a tax?"	046593.docx	LEGALEASE-00166627-LEGALEASE-00166628
Agio Indus. v. Delta Oil Co., 485 So. 2d 340	307A+583	Dismissal for want of prosecution is within discretion and inherent power of trial court, but such harsh sanction should be used only in extreme circumstances.	Is the dismissal for want of prosecution within the discretion and the inherent power of trial court?	Pretrial Procedure - Memo 11793 - C - NC_65470.docx	ROSS-003279820-ROSS-003279821

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Willis v. Columbus Med. Ctr., 306 Ga. App. 331	25T+481	After parents filed medical malpractice action on behalf of their son and case was referred to mediation, no written order was filed with the clerk within the statutory period, and thus, case was automatically dismissed as a matter of law, although parents' counsel was under the mistaken impression that the trial court's order had been filed by Office of Dispute Resolution; plain language of the mediation order and well-established case law placed duty squarely upon the parents and/or their counsel to ensure that the necessary actions had been taken in order to avoid dismissal. West's Ga.Code Ann. SS 9-2-60(b), 9-11-41(e).	Does an automatic dismissal due to a fact that no written order is taken for a period of five years result as a matter of law and the court has no discretion to order action reinstated?	Pretrial Procedure - Memo 11522 - C - NE_65337.docx	ROSS-003280831-ROSS-003280832
State v. Nelson, 158 Wash. 2d 699	200+86	Owner of fee in highway can use it only in way that is compatible with public travel thereon.	Can the owner of a fee in a highway use it only in a way that is compatible with the public travel thereon?	Highways - Memo 468 - RK_66368.docx	ROSS-003280839
State v. Deines, 268 Kan. 432	200+158	Where there is an obstruction across a public right-of-way which obstructs the travel of an individual, the obstruction is a nuisance per se and the affected individual may remove the obstruction by way of abatement.	Can an individual remove the obstruction by way of abatement?	Highways -Memo 427- PR_62043.docx	ROSS-003280864-ROSS-003280865
Powers v. Sims & Levin, 542 F.2d 1216	172H+1561	Under Truth in Lending Act, when rescission is attempted under circumstances which would deprive lender of its legal due, attempted rescission will not be judicially enforced unless it is so conditioned that lender will be assured of receiving its legal due. Truth in Lending Act, S 125(b), 15 U.S.C.A. S 1635(b).	Can attempted rescission be judicially enforced?	Consumer Credit - Memo 22 - IS_60039.docx	ROSS-003281099-ROSS-003281100
United States v. Turner, 32 U.S. 132	181+5	The making of a false instrument which is the subject of forgery with a fraudulent intent, although in the name of a nonexisting person, constitutes "forgery" as much as if it had been made in the name of a person known to exist and to whom credit was due.	Will a note be deemed a forgery if it is made with intent to defraud?	Bills and Notes - Memo 1006 - RK_61286.docx	ROSS-003281985-ROSS-003281987
Howard v. Cty. of Amador, 220 Cal. App. 3d 962	233+531	Distinguishing characteristics of a "leasehold estate" are that the lease gives the lessee exclusive possession of the premises against all the world, including the owner, and its term is limited to endure for a definite and ascertained period, however short or long the period may be.	Are leases characterized by the exclusive possession of premises they provide against the world?	Landlord and Tenant - Memo 81 - ANG.docx	ROSS-003283236-ROSS-003283237
Vines v. Branch, 244 Va. 185	386+49	One who commits trespass to chattel is liable to its rightful possessor for actual damages suffered by reason of loss of its use.	Will a trespasser to chattels be liable for actual damages?	Trespass - Memo - 125 - RK.docx	ROSS-003283834-ROSS-003283835
Simitar Entm't v. Silva Entm't, 44 F. Supp. 2d 986	25T+113	Federal Arbitration Act's proarbitration policy does not operate without regard to the intent of the contracting parties, for arbitration is a matter of consent, not of coercion. 9 U.S.C.A. S 1 et seq.	Does the pro-arbitration policy operate without the intent of the contracting parties?	Alternative Dispute Resolution - Memo 67- JS.docx	ROSS-003284066-ROSS-003284067
Witt v. U.S. Dep't of Air Force, 444 F. Supp. 2d 1138	209+101	Congress, directly or by delegation, has power to define who is an Indian for purposes of determining property rights.	Does the Congress has the power to define who is an Indian for purposes of determining property rights?	Indians - Memo 80 - BP.docx	ROSS-003284202-ROSS-003284203
Doe v. Amherst Coll., 238 F. Supp. 3d 195	237+1	The tort of defamation seeks to impose liability on a defendant for harm sustained by a plaintiff as a result of the publication of a false statement about the plaintiff to others.	When can liability for defamation be imposed on a defendant?	Libel and Slander- Memo 7 - RM.docx	ROSS-003284591-ROSS-003284592

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Walker v. McGuire, 2015 IL 117138	79+12	Clerks of circuit courts did not fall within state constitutional provision prohibiting fee officers in judicial system, and, thus, provision of civil procedure code, which imposed \$50 filing fee in residential mortgage foreclosure cases, two percent of which was retained by clerk for court in which complaint was filed, was not unconstitutional; clerks were officers of judicial branch of government, but they were non-judicial officers, and clerks performed no quasi-judicial functions. S.H.A. Const. Art. 6, S 14; S.H.A. 735 ILCS 5/15-1504.1.	Is a circuit clerk a non-judicial officer of the judicial branch of the government?	Clerks of Court - Memo 50 - RK.docx	ROSS-003285055-ROSS-003285056
M.T. v. State, 2009 Ark. App. 761	129+107	For purposes of disorderly conduct, a public inconvenience, annoyance, or alarm can occur due to an individual's conduct whether the individual and the people are on public or private property. West's A.C.A. S 5-71-207(a)(1).	Can public inconvenience occur due to an individual's conduct?	Disorder Conduct - Memo 16 - PR_64295.docx	ROSS-003285341-ROSS-003285342
In re Patterson, 330 B.R. 631	51+2823	Doctrine of equitable subrogation is not applicable in bankruptcy case, when to apply it would directly circumvent the result intended by Congress in enacting the Bankruptcy Code, as when preference defendant seeks to avoid results of having its lien avoided, for failing to perfect lien in timely fashion, by being subrogated to another lienholder's rights. 11 U.S.C.A. S 547(b).	Is equitable subrogation applicable in bankruptcy cases?	Subrogation - Memo 383 - VP C.docx	ROSS-003285365-ROSS-003285366
Smith v. City of Chicago, 143 F. Supp. 3d 741	386+6	Under Illinois law, an injury to or interference with possession, with or without physical force, constitutes a trespass to personal property.	Can trespass to personal property occur without physical force?	Trespass - Memo 123 - RK.docx	ROSS-003286315-ROSS-003286316
Compton v. Ubilluz, 353 Ill. App. 3d 863	307A+3	To prevent confusion and misunderstanding during trial, both the motion in limine and the resulting order should be in writing.	"To prevent confusion and misunderstanding during trial, should both the motion in limine and the resulting order be in writing?"	Pretrial Procedure - Memo # 70 - C - KA.docx	ROSS-003286381-ROSS-003286382
Third & Catalina Assocs. v. City of Phoenix, 182 Ariz. 203	148+2.2	Requiring money to be spent to comply with regulation is not unconstitutional taking of private property. U.S.C.A. Const.Amend. 5.	Is requiring money to be spent to comply with a regulation an unconstitutional taking of private property?	Eminent Domain - Memo 302 - GP.docx	ROSS-003286736-ROSS-003286737
Mastercraft Wayside Furniture Co. v. Sightmaster Corp., 332 Mass. 383	30+6	Ordinarily, question of correctness of a general finding or decision cannot be raised by an exception or claim of report, which lies only to questions of law.	Can the question of correctness of a general finding be raised by an exception or claim of report?	Appeal and error - Memo 46 - RK.docx	ROSS-003287269-ROSS-003287270
Stiles v. City of Guthrie, 1895 OK 51	200+121	Under Laws 1893, the board of county commissioners had no authority to levy a tax for road and bridge purposes unless first authorized by a majority vote of the people on a submission of the question at a general or special election.	Can a board of county commissioners levy taxes?	Highways -Memo 37 - RK.docx	ROSS-003287316-ROSS-003287319
Sheely v. Pinion, 200 W. Va. 472	307A+746	In formulating appropriate sanction for failure to comply with scheduling order, court shall be guided by equitable principles; court may consider seriousness of conduct, impact conduct had in case and in administration of justice, any mitigating circumstances, and whether conduct was isolated occurrence or was pattern of wrongdoing throughout case. Rules Civ.Proc., Rule 16(f).	"In formulating appropriate sanction, shall a court be guided by equitable principles? "	Pretrial Procedure - Memo # 6517 - C - NS.docx	ROSS-003288350-ROSS-003288351

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Westmoreland Coal Co. v. Fed. Mine Safety & Health Review Comm'n, 606 F.2d 417	260+92.5(2)	The purpose of Federal Coal Mine Health and Safety Act is to protect the safety of the miner and Act is to be interpreted liberally to effect that purpose. Federal Coal Mine Health and Safety Act of 1969, SS 2 et seq., 113(d)(1) as amended 30 U.S.C.A. SS 801 et seq., 823(d)(1).	Is the purpose of the Federal Coal Mine Health and Safety Act to protect the safety of the miner?	Mines and Minerals - Memo # 58 - C - CSS.docx	ROSS-003288385-ROSS-003288386
Vill. of Fontana-On-Geneva Lake v. Hoag, 57 Wis. 2d 209	307A+747.1	A proper record of the pretrial conference should be held and that record should include any stipulations that are agreed to by the parties. W.S.A. 269.65(2).	Should a proper record of the pretrial conference be held and that record should include any stipulations that are agreed to by the parties?	Pretrial Procedure - Memo # 1676 - C - BP.docx	ROSS-003289072-ROSS-003289073
Sabino v. WOIO, 56 N.E.3d 368	237+1	Defamation can be in the form of defamation per se or defamation per quod: "defamation per se" means that the defamation is accomplished by the very words spoken or written; "defamation per quod" is when a statement with an apparently innocent meaning becomes defamatory through interpretation or innuendo.	What is defamation per se and defamation per quod?	Libel and Slander- Memo 10 - RM.docx	ROSS-003289747-ROSS-003289748
In re New Hampshire Youth Dev. Ctr., 152 N.H. 86	413+2	Because the right to workers' compensation is statutory in its origin, injured workers' rights can be no greater than what the legislature has provided.	" Is the right to compensation statutory in origin, and can an injured workers rights be greater than what the legislature has provided?"	Workers Compensation - Memo #377 ANC.docx	ROSS-003289896-ROSS-003289897
BITT Int'l Co. v. Fletcher, 259 Ga. App. 406	233+2155	Stakes furnished by landlord for crops raised by tenant came within crop lien under Crop Lien Foreclosure Act by operation of law, though there was no agreement as to the use of the stakes in landlord's and tenant's written contract, where stakes were furnished for use in making the crop, were necessary to making the crop, and were used by tenant in making the crop. West's Ga.Code Ann. S 44-14-340(1).	What are some of the conditions that must be satisfied under the Crop Lien Foreclosure Act?	Agriculture - Memo 30 - SB.docx	ROSS-003289990-ROSS-003289991
Pasco v. State, 563 N.E.2d 587	352H+21(1)	Evidence of slightest degree of penetration of female sex organ by male sex organ is sufficient to sustain rape conviction, and such penetration can be inferred from circumstantial evidence.	Can penetration be inferred from circumstantial evidence?	Sex Offence - Memo 84 - RK.docx	ROSS-003290097-ROSS-003290098
McDaniel v. Plumbe, 3 Greene 331	307A+91	A bill of discovery is subject to equity jurisdiction only, and cannot come up for correction of error at law.	Is a bill of discovery subject to equity jurisdiction only and cannot come up for a correction of error at law?	Pretrial Procedure - Memo # 4757 - C - TM.docx	ROSS-003291771-ROSS-003291772
Admiral Oriental Line v. United States, 86 F.2d 201	308+85	An agent, compelled to defend a baseless suit, grounded on acts performed in his principal's business, may recover from principal expenses of his defense.	Can an Agent recover expenses of a suit?	Principal and Agent - Memo 56 - KC_60263.docx	ROSS-003291875
United States v. Madeoy, 912 F.2d 1486	63+13	Whether individual is public official within meaning of bribery statute is question of law. 18 U.S.C.A. S 201(a)(1).	Is the question of whether someone is a public official within the meaning of the bribery statute a question of law or fact?	Bribery - Memo #675 - C - LB_57722.docx	ROSS-003291899-ROSS-003291901
Neff v. Brady, 527 S.W.3d 511	302+228.14	The purpose of special exceptions is to compel clarification of a pleading that fails to plead a cause of action or is not clear or sufficiently specific.	Is the purpose of special exceptions to compel clarification of a pleading?	Pleading - Memo 457 - RMM_58005.docx	ROSS-003293178-ROSS-003293179
Stern v. First Nat. Bank of S. Miami, 275 So. 2d 58	307A+561.1	A motion to dismiss may be based on an affirmative defense when grounds therefore appear on the face of a prior pleading. 30 F.S.A. Rules of Civil Procedure, rules 1.110(d), 1.140(b).	When a motion to dismiss is allowed based on an affirmative defense?	Pretrial Procedure - Memo 11152 - C - KG_64365.docx	ROSS-003293659
State ex rel. Arn v. State Comm'n of Revenue & Taxation, 163 Kan. 240	200+99	The construction and repair of public roads is a "governmental function" which may be exercised by the state or delegated to state or local agencies.	Is constructing and repairing the public roads and highways a governmental function?	Highways - Memo 454 - RK_66354.docx	ROSS-003295092-ROSS-003295093

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Ready v. United/Goedecke Servs., 393 Ill. App. 3d 56	307A+3	Court's ruling on evidentiary motions such as motions in limine are left to the court's discretion and will not be disturbed on appeal absent an abuse of that discretion.	"Are rulings on evidence motions, such as motions in limine, left undisturbed on review absent an abuse of discretion? "	Pretrial Procedure - Memo # 586 - C - SSB.docx	ROSS-003295577-ROSS-003295578
Cady v. Bay City Land Co., 102 Or. 5	83E+431	Since one who writes his name on the back of a negotiable instrument may enlarge or restrict his liability without destroying his character as an indorser, a writing by the payee on the back of a promissory note, "Notice of protest waived and payment guaranteed," passed title to his assignee; such guaranty of payment being equivalent to an indorsement, and the rights of the parties, in view of Or.L. S 7910, ORS 71.118, requiring protest only in case of foreign bills of exchange, not being affected by such waiver of notice.	"Are indorsements with waiver of notice, demand and protest capable of passing title?"	Bills and Notes-Memo 984-IS_58955.docx	ROSS-003295753-ROSS-003295754
Frymire Eng'g Co. ex rel. Liberty Mut. Ins. Co. v. Jomar Int'l, Ltd., 259 S.W.3d 140	366+26	Equitable subrogation applies in every instance in which one person, not acting voluntarily, has paid a debt for which another was primarily liable and which in equity should have been paid by the latter.	Does the doctrine of equitable subrogation most often arise in the context of insurance?	Subrogation - Memo 158 - ANG C.docx	ROSS-003295953-ROSS-003295954
Lacey v. Vill. of Palatine, 379 Ill. App. 3d 62	307A+685	The affirmative matter asserted by the defendant on a motion to dismiss based upon defects or defenses must be apparent on the face of the complaint; otherwise, the motion must be supported by affidavits or certain other evidentiary materials. S.H.A. 735 ILCS 5/2-619(a)(9).	Should the affirmative matter asserted by the defendant be apparent on the face of the complaint or supported by affidavits or certain other evidentiary materials?	Pretrial Procedure - Memo # 9848 - C - UG_61443.docx	ROSS-003296689-ROSS-003296690
Beharry v. Reno, 183 F. Supp. 2d 584	221+109	In general, customary international law has the same status as domestic legislation. Restatement (Third) of Foreign Relations Law S 701 comment.	Does customary international law have the same status as domestic legislation?	International Law - Memo 476 - TH.docx	ROSS-003297798-ROSS-003297799
In re Houston, 409 B.R. 799	366+1	Subrogation is allowed under South Carolina law only upon fact intensive inquiry and a balancing of equity.	Is subrogation allowed only upon fact intensive inquiry and a balancing of equity?	Subrogation - Memo # 405 - C - SA.docx	ROSS-003299438-ROSS-003299439
Murphy v. Colorado Aviation, 41 Colo. App. 237	307A+749.1	Trial court had broad discretion in allowing deviations from terms of pretrial orders. Rules of Civil Procedure, rule 16.	Does a trial court have broad discretion in allowing deviations from the terms of pretrial orders?	Pretrial Procedure - Memo # 2305 - C - NS.docx	ROSS-003300025-ROSS-003300026
Serrano v. Priest, 5 Cal. 3d 584	1.41E+19	The word "system" as used in constitutional direction to legislature to provide system of common schools means one system which shall be applicable to all common schools within state. West's Ann.Const. art. 9, S 5.	"What does the word ""system"" implies with respect to a system of common schools?"	Education - Memo # 98 - C - SU.docx	ROSS-003300756-ROSS-003300758
Green v. Hill, 954 F.2d 694	413+1	Federal Employees' Compensation Act covers liability created both by negligent and intentional acts on part of government. 5 U.S.C.A. SS 8102, 8116(c).	Does the employee's compensation act cover liability created both by negligent an intentional acts on the part of government?	Workers Compensation - Memo #107 ANC.docx	ROSS-003301324-ROSS-003301325
In re Trampush, 552 B.R. 817	366+1	Under Wisconsin law, the object of subrogation is to do substantial justice independent of form or contract relation between the parties.	Is the object of subrogation to do substantial justice independent of form or contract relation between the parties?	Subrogation - Memo # 536 - ANG C.docx	ROSS-003301462-ROSS-003301463
Stone v. Mehlberg, 728 F. Supp. 1341	83E+524	A mortgage which was not payable to order or bearer was not a negotiable instrument and thus assignees of the mortgagee were not protected by the UCC's holder in due course doctrine. U.C.C. S 3-101 et seq.	"Is mortgage a negotiable instrument, when it is not payable to the bearer? "	Bills and Notes-Memo 1154-PR_59644.docx	ROSS-003307820

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Caterpillar v. Usinor Industeel, 393 F. Supp. 2d 659	308+1	Under Illinois law, test for agency is whether alleged principal has right to control manner in which work is carried out by alleged agent, and whether alleged agent can affect legal relationships of principal.	What is the test for agency?	Principal and Agent - Memo 526 - RK_63984.docx	ROSS-003308149-ROSS-003308150
Fed. Land Bank of Baltimore v. Joynes, 179 Va. 394	366+1	"Subrogation" is the substitution of another person in the place of the creditor to whose right he succeeds in relation to the debt, and the doctrine of subrogation is not dependent upon contract nor upon privity between the parties, but rather it is the creature of equity and is founded upon principles of natural justice.	Is subrogation an equitable remedy which substitutes another person or entity in the place of the creditor whose claim was satisfied?	Subrogation - Memo 397 - RM C.docx	ROSS-003308844-ROSS-003308846
In re Commitment of Kelley, 2012 IL App (1st) 110240	307A+3	A ruling on a motion in limine is a matter within the discretion of the trial court and will not be reversed absent an abuse of that discretion.	Is a ruling on a motion in limine reversed absent an abuse of that discretion?	Pretrial Procedure - Memo # 574 - C - SSB.docx	ROSS-003311835-ROSS-003311836
Gambino v. Standard Fire Ins. Co., 12-474 (La. App. 5 Cir. 2/21/13)	307A+590.1	A step by one party prevents abandonment of a suit for lack of prosecution as to all of the parties, even though they are not solidarily liable. LSA-C.C.P. art. 561.	Does a step by one party prevent abandonment of a suit for lack of prosecution as to all of the parties?	Pretrial Procedure - Memo # 7124 - C - CK_58018.docx	ROSS-003311860
Weitz Co. v. Lexington Ins. Co., 982 F. Supp. 2d 975	366+1	Under Iowa law, equitable subrogation will never be enforced when doing so would be inequitable, or where it would work injustice to others having equal equities.	Will equitable subrogation be enforced when it would work injustice to rights of those having equities?	Subrogation - Memo 294 - RM C.docx	ROSS-003312223-ROSS-003312224
Nentwig v. United Indus., 256 Mont. 134	307A+750	While pretrial order should be liberally construed to permit any issues at trial that are embraced within its language, theory or issue must be at least implicitly included in the pretrial order.	"Should a pretrial order be construed liberally, whilst the theory or issue tried is included, at least implicitly, in the pretrial order?"	Pretrial Procedure - Memo # 1665 - C - KG.docx	ROSS-003314823-ROSS-003314824
Snyder v. Motorists Mut. Ins. Co., 2 Ohio App. 2d 19	221+138	Sovereignty of nations bordering seas does not stop at shoreline but extends over and under the ocean for some distance.	Does the sovereignty of nations bordering seas stop at shoreline or does it extend over and under the ocean for some distance?	International Law - Memo # 257 - C - ANC.docx	ROSS-003315156-ROSS-003315158
Todd W. Musburger, Ltd. v. Meier, 394 Ill. App. 3d 781	307A+3	Motions in limine are designed to produce a trial without the introduction of prejudicial material.	Are motions in limine designed to produce a trial without the introduction of prejudicial material?	Pretrial Procedure - Memo # 217 - C - CRB.docx	ROSS-003316049-ROSS-003316050
Application of Kaul, 261 Kan. 755	371+2003	Power to levy taxes is inherent in power to govern, but exercise of that power is dependent upon existence of legislation designating kinds of property to be taxed.	Is the power to levy taxes inherent in the power to govern?	Taxation - Memo # 724 - C - SJ.docx	ROSS-003317112-ROSS-003317113
In re McCabe Grp., 424 B.R. 1	366+1	Under Massachusetts law, equitable subrogation exists to prevent unwarranted windfalls, because duplicative recoveries are a result which the law has never looked upon with favor.	Does equitable subrogation exist to prevent unwarranted windfalls?	Subrogation - Memo 212 - RM C.docx	ROSS-003324200-ROSS-003324201
Gen. Motors Corp. v. Pamela Equities Corp., 146 F.3d 242	25T+119	Parties may agree to the submission to arbitration of existing controversies without any previous contract to do so.	Can parties agree to arbitrate existing controversies without any previous contract to do so?	Alternative Dispute Resolution - Memo 344 - RK.docx	ROSS-003325030-ROSS-003325031
Davidson v. Bugbee, 227 Mich. App. 264	13+61	Cause of action accrues when all the elements of claim have occurred and can be alleged in proper complaint.	Does a cause of action accrue when all the elements of claim have occurred and can be alleged in proper complaint?	Action - Memo # 155 - C - CS.docx	ROSS-003325232-ROSS-003325233
McCabe v. Braunstein, 439 B.R. 1	366+1	"Equitable subrogation" occurs, under Massachusetts law, where one party, by virtue of its payment of another's obligation, steps into the shoes of the party who was owed the obligation for purposes of getting recompense for its payment.	When does equitable subrogation occur?	Subrogation - Memo 175 - ANG C.docx	ROSS-003325521-ROSS-003325523

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Transamerica Ins. Co. v. Barnett Bank of Marion Cty., N.A., 524 So. 2d 439	366+35	Remedy of equitable subrogation is customarily denied to party who could have protected himself but who had been negligent in doing so.	Is a remedy of equitable subrogation customarily denied to a party who could have protected himself but who had been negligent in doing so ?	Subrogation - Memo # 1059 - C - NS.docx	ROSS-003325762-ROSS-003325763
Weeden v. City of Beloit, 22 Wis. 2d 414	307A+552	Power to dismiss groundless, vexatious, and harassing litigations is inherent in courts, and vexatious action will be dismissed where it is clear that there is no meritorious cause of action.	Can a vexatious action be dismissed where it is clear that there is no meritorious cause of action?	Pretrial Procedure - Memo # 7249 - C - KG.docx	ROSS-003329107-ROSS-003329108
Mujica v. Occidental Petroleum Corp., 381 F. Supp. 2d 1164	221+387	Party asserting applicability of act of state doctrine bears burden of proof.	Does the party asserting applicability of act of state doctrine bear the burden of proof?	International Law - Memo # 199 - C - MLS.docx	ROSS-003329277-ROSS-003329278
Allen v. State ex rel. Ernest N. Morial--New Orleans Exhibition Hall Auth., 814 So. 2d 644	200+194	State has duty to exercise reasonable care in maintenance of highways to prevent defective and dangerous conditions from injuring travellers, and if highways are in dangerously defective condition and State has notice of condition, State is negligent if it does not notify or warn public of condition.	Does the state have a duty to exercise reasonable care in the maintenance and care of its highways?	Highways -Memo 126 - KC.docx	ROSS-003329530
Roth v. First Nat. State Bank of New Jersey, 169 N.J. Super. 280	172H+1697	There is a generally recognized obligation of confidentiality in respect of a depositor's financial relationship with a bank.	Is there a recognized obligation of confidentiality in respect of a depositor's financial relationship with a bank?	000106.docx	LEGALEASE-00115391-LEGALEASE-00115393
Montgomery v. Keppel, 75 Cal. 128	277+1	Having readily accessible means of acquiring knowledge of a fact, which he might have ascertained by inquiry, is equivalent to notice and knowledge of it.	Is readily accessible means of knowledge the equivalent to notice?	Notice - Memo 13 - VP.doc	ROSS-003287298-ROSS-003287299
Gilling v. E. Airlines, 680 F. Supp. 169	25T+111	Purpose of arbitration programs are to provide parties with quick and inexpensive means of resolving their disputes while, at the same time, reducing court's case load, and explicit in arbitration program is need for parties to participate in good faith, so that failure to do so warrants appropriate sanctions by court.	Does arbitration help the courts in reducing the workload?	Alternative Dispute Resolution - Memo 30 - JS.docx	LEGALEASE-00000349-LEGALEASE-00000351
Erving v. Virginia Squires Basketball Club, 468 F.2d 1064	25T+110	Where federal law is applicable, it should be implemented in such way as to make arbitration effective and not to erect technical and unsubstantial barriers. 9 U.S.C.A. S 1 et seq.	How can federal law be implemented to make arbitration effective?	Alternative Dispute Resolution - Memo 8 - JS.docx	ROSS-003284154-ROSS-003284156
People v. Maldonado, 119 A.D.3d 610	181+1	There can be a forgery only if the actor is not the ostensible maker or drawer of the instrument and is not authorized by that person to either make, complete or alter the instrument.	"To constitute forgery, is it necessary that the actual maker or drawer be someone other than the ostensible maker or drawer of the instrument?"	Forgery - Memo 11 - RM.docx	LEGALEASE-00000482-LEGALEASE-00000484
Frierson v. Watson, 371 S.C. 60	277+12	Notice of a deed is notice of its entire contents, and notice of whatever matters one would have learned upon the inquiry that the instrument made it one's duty to pursue.	What does a notice of a deed provide under law?	003839.docx	LEGALEASE-00115801-LEGALEASE-00115802
Hardy v. Smith, 148 So. 3d 64	20+11	An essential element of adverse possession relates to the claimant's intent to assert dominion and control over the disputed property.	Is the element of intention essential to prove adverse possession?	003861.docx	LEGALEASE-00115853-LEGALEASE-00115854
State v. Peterson, 153 Idaho 157	181+10	Alteration of figures in upper right-hand corner of check designating amount payable did not materially change the obligation of the maker where the amount expressed in words remained unchanged. F.S.A. S 674.19(1).	Does alteration of the figures on a negotiable instrument constitute forgery?	Forgery - Memo 25 - AKA.docx	ROSS-003284314-ROSS-003284316

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In re Flamingo 55, 378 B.R. 893	309+6	Under California law, a surety is the same as a guarantor, and a "surety" or "guarantor" is one who promises to answer for the debt, default, or miscarriage of another, or hypothecates property as security therefor. West's Ann.Cal.Civ.Code S 2787.	How is a surety similar to a guarantor?	003953.docx	LEGALEASE-00115886- LEGALEASE-00115887
Unified Sch. Dist. No. 500, Wyandotte Cty. v. Turk, 219 Kan. 655	277+12	Where there is a statutory provision for constructive notice, it has the same effect as actual notice and binds equally, regardless of whether actual information thereof came to the party to be charged. K.S.A. 26-503, 26-505, 26-506.	Does constructive notice have the same effect as actual notice?	003963.docx	LEGALEASE-00115968- LEGALEASE-00115969
Adamovic v. METME Corp., 961 F.2d 652	25T+113	Federal policy favoring arbitration does not give courts license to compel arbitration absent agreement to do so.	Does Federal policy favoring arbitration give courts license to compel arbitration?	Alternative Dispute Resolution - Memo 88 - JS.docx	LEGALEASE-00000986- LEGALEASE-00000987
Farnsworth v. Towboat Nantucket Sound, 790 F.3d 90	25T+114	Under the Federal Arbitration Act (FAA), courts must treat arbitration agreements in the same way as other contracts and enforce them according to their terms. 9 U.S.C.A. S 1 et seq.	What is the fundamental principal of Federal Arbitration Act (FAA)?	Alternative Dispute Resolution - Memo 50- JS.docx	ROSS-003283557-ROSS- 003283558
In re Marriage of McTiernan & Dubrow, 133 Cal. App. 4th 1090	315+36	Personal property may be incorporeal, i.e., without tangible substance, and it may be intangible in the sense that it is a right rather than a physical object. West's Ann.Cal.Civ.Code S 663.	Can personal property be incorporeal?	Property - Memo 1 - ANG.docx	ROSS-003297186-ROSS- 003297187
Simmons Foods v. H. Mahmood J. Al-Bunnia & Sons Co., 634 F.3d 466	25T+112	Order to arbitrate grievance should not be denied unless it may be said with positive assurance that arbitration clause is not susceptible of interpretation that covers asserted dispute; however, party who has not agreed to arbitrate dispute cannot be forced to do so. 9 U.S.C.A. SS 1-16.	When is a dispute submitted to arbitration?	003737.docx	LEGALEASE-00116100- LEGALEASE-00116101
Barclaysamerican Corp. v. Kane, 746 F.2d 653	170A+1604(1)	Party seeking to assert attorney-client privilege or a work product doctrine as a bar to discovery has burden of establishing that either or both is applicable.	Who has the burden of demonstrating that the privilege is applicable?	07120.docx	LEGALEASE-00089146- LEGALEASE-00089147
Catlin (Syndicate 2003) at Lloyd's v. San Juan Towing & Marine Services, 946 F. Supp. 2d 256	16+10(4)	Floating drydock was maritime interest, and thus insurance dispute involving drydock fell within scope of federal district court's admiralty jurisdiction, even though drydock was not fully operational structure, and policy covered incidental non-maritime elements, where drydock was designed, constructed, and used to provide marine maintenance and repair services to vessels, and policy covered "all risks of docking, undocking, or moving in harbour and going on or off gridiron or graving docks," provided for loss or damage directly caused by "(a)ccidents in going on or off, or while on drydocks, graving docks, ways, gridirons or pontoons," provided protection in event that insured "come(s) into collision with any other vessel, craft or structure, floating or otherwise," protected insured from liability "for physical loss of or damage to watercraft and their equipment, cargo and other interests on board," and covered tools and equipment "used in the operation of (insured)'s business," which policy identified as "(v)essel (r)epair (and) (m)arine (s)alvage." 28 U.S.C.A. S 1333(1).	When does an insurance policy come within the admiralty jurisdiction?	004054.docx	LEGALEASE-00116132- LEGALEASE-00116134

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Consolidation Coal Company v. Benefits Review Board, 629 F.3d 322	413+262	LHWCA "status requirement" is that covered "employee" must be person engaged in "maritime employment," which expressly includes specified occupations but is not limited to those callings. Longshore and Harbor Workers' Compensation Act, S 2(3), 33 U.S.C.A. S 902(3).	Does the Longshore and Harbor Workers' Compensation Act apply to ship repairmen?	Admiralty Law - Memo 27 - JS.docx	LEGALEASE-00001499-LEGALEASE-00001500
International Sea Food Ltd. v. M/V Campeche, 566 F.2d 482	228+830.1	United States district court had subject matter jurisdiction in admiralty to enforce a foreign maritime decree which awarded damages to plaintiff on claim for maritime collision in suit brought against the four original defendants and the defendants' United States maritime insurer which allegedly issued a policy in effect at time of collision and which provided coverage for the foreign judgment. Supplemental Rules for Certain Admiralty and Maritime Claims, rule B, 28 U.S.C.A.	Can a court of admiralty enforce a decree of a foreign admiralty?	Admiralty Law - Memo 28 - JS.docx	LEGALEASE-00001501-LEGALEASE-00001502
Etokie v. Carmax Auto Superstores, 133 F. Supp. 2d 390	25T+111	If costs under an arbitration agreement would prevent or deter prospective litigants from filing their claims and vindicating their statutory rights, the arbitration agreement is unenforceable under the Federal Arbitration Act (FAA). 9 U.S.C.A. S 1 et seq.	When can an arbitration agreement be unenforceable?	Alternative Dispute Resolution - Memo 43 - JS.docx	ROSS-003282798-ROSS-003282800
Goldfarb v. Reicher, 112 N.J.L. 413	38+5	Absent statute to the contrary, nothing is assignable at law or in equity that does not directly or indirectly involve a right to property.	"What does the general doctrine of assignability state with respect to a right of property, directly or indirectly, both at law and in equity?"	Assignments - Memo 37 - JS.docx	LEGALEASE-00001582-LEGALEASE-00001584
United States v. Viloski, 814 F.3d 104	180+63(1)	Under the Eighth Amendment, a forfeiture is unconstitutionally excessive if it is grossly disproportional to the gravity of a defendant's offense. U.S.C.A. Const.Amend. 8.	Does a punitive forfeiture violate the Excessive Fines Clause if it is grossly disproportional to the gravity of a defendant's offense under the Eighth Amendment?	004727.docx	LEGALEASE-00116420-LEGALEASE-00116422
United States v. Ferro, 681 F.3d 1105	174+1.3	"Fine," for purposes of the Eighth Amendment's Excessive Fines Clause, refers to a payment to a sovereign as punishment for some offense. U.S.C.A. Const.Amend. 8.	What does fine for the purposes of the Eighth Amendment's Excessive Fines Clause refer to?	Fines - Memo 6 - RK.docx	ROSS-003288549-ROSS-003288551
Merryman v. State, 391 S.W.3d 261	146+4	The agreement required by statute prohibiting misapplication of fiduciary property need not be a written contract, but may be only an understanding or arrangement as to a particular course of action. V.T.C.A., Penal Code S 32.45(a)(2)(A).	Does the agreement under which a fiduciary holds property or money be a written contract?	004313.docx	LEGALEASE-00116551-LEGALEASE-00116552
State v. Morris, 156 N.C. App. 335	146+5	Fraudulent intent required for embezzlement is defined as intent to willfully and corruptly use or misapply another's property for purposes other than that for which it was held; such intent may be shown by direct evidence, or by evidence of facts and circumstances from which it may reasonably be inferred. West's N.C.G.S.A. S 14-74.	What is the fraudulent intent required for embezzlement?	004317.docx	LEGALEASE-00116676-LEGALEASE-00116677
Chesapeake & O. Ry. Co. v. Greenup Cty., Ky., 175 F.2d 169	148+55	The power of eminent domain is so inherently governmental in character, and so essential for the public welfare, as not to be susceptible of abridgement by agreement.	What is the inherent character of the power of eminent domain?	Eminent Domain - Memo 5 - AKA.doc	ROSS-003282559-ROSS-003282561
401 Public Safety v. Ray, 80 N.E.3d 895	237+1	To establish a claim of defamation, a plaintiff must prove the existence of a communication with defamatory imputation, malice, publication, and damages.	How does a plaintiff establish a claim of defamation?	004423.docx	LEGALEASE-00116647-LEGALEASE-00116648
Freeman v. Grain Processing Corp., 895 N.W.2d 105	279+4	To constitute a nuisance, there must be a degree of danger likely to result in damage inherent in the thing itself, beyond that arising from a mere failure to exercise ordinary care.	Are nuisance and negligence distinguishable?	004438.docx	LEGALEASE-00116640-LEGALEASE-00116641

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Cont'l Ins. Co. v. Washeon Corp., 524 F. Supp. 34	50+5	To establish a bailment, there must be delivery and acceptance of bailed property for specific purpose in accordance with express or implied contract between bailor and bailee, delivery to bailee must be complete, and for period of the bailment, bailee must have exclusive right to possession of bailed property, even as against the owner.	What is required to establish a bailment?	Bailment - Memo 6 - JS.docx	ROSS-003295190-ROSS-003295191
Nat. Res. Def. Council v. U.S. E.P.A., 279 F.3d 1180	1.49E+17	Like other agencies, when issuing permits under the Administrative Procedure Act (APA), the Environmental Protection Agency (EPA) must provide notice sufficient to fairly apprise interested persons of the subjects and issues before the agency. 5 U.S.C.A. S 553(b, c).	What is sufficient notice that the EPA is required to provide?	004563.docx	LEGALEASE-00116536-LEGALEASE-00116537
Wheeling-Pittsburgh Steel Corp. v. Dep't of Env'tl. Prot., 979 A.2d 931	149E+678	As an agency responsible for enforcing and implementing environmental statutes and regulations, Department of Environmental Protection (DEP) is in the best position to interpret its own regulations, and its interpretation is accorded deference and given controlling weight unless it is clearly erroneous.	Is the Department of Environmental Protection (DEP) empowered with the authority to interpret and enforce environmental laws?	Environmental Law - Memo 46 - AKA.doc	ROSS-003284572-ROSS-003284573
Ex parte N.M., 132 So. 3d 1088	401+1.5	The question of proper venue for an action is determined at the commencement of the action; if venue is not proper at the commencement of the action, then, upon motion of the defendant, the action must be transferred to a court where venue would be proper.	When is the proper venue for an action determined?	Venue - Memo 18 - RK.docx	ROSS-003315822-ROSS-003315823
Wheeling-Pittsburgh Steel Corp. v. Dep't of Env'tl. Prot., 979 A.2d 931	149E+678	As an agency responsible for enforcing and implementing environmental statutes and regulations, Department of Environmental Protection (DEP) is in the best position to interpret its own regulations, and its interpretation is accorded deference and given controlling weight unless it is clearly erroneous.	Is the Department of Environmental Protection (DEP) empowered with the authority to interpret and enforce environmental laws?	Environmental Law - Memo 46 - AKA.doc	LEGALEASE-00002692-LEGALEASE-00002693
Allemania Fire Ins. Co. of Pittsburgh v. Keller Diamond Corp., 101 N.Y.S.2d 9	50+11	Bailee's promise to return the thing bailed except in a specified event adds to the liability of bailee implied by law and makes bailee liable for failure to return caused by some other event.	What is a bailee's promise under bailment law?	Bailment - Memo 17 - ANG.docx	LEGALEASE-00002761-LEGALEASE-00002762
Isik Jewelry v. Mars Media, 418 F. Supp. 2d 112	50+1	The element of lawful possession, however created, and duty to account for personal property as the property of another creates a bailment, regardless of whether such possession is based on contract in the ordinary sense.	Is a formal agreement required for a bailment?	Bailment - Memo 20 - ANG.docx	ROSS-003284541-ROSS-003284543
White River Estates v. Hiltbruner, 134 Wash. 2d 761	379+115	When person acts "unreasonably" in light of circumstances, such action is similar to negligence, not intentional tort.	Does a person's unreasonable act in light of the circumstances result in an intentional tort?	004812.docx	LEGALEASE-00116857-LEGALEASE-00116858
Perez v. Cumba, 138 Conn. App. 351	302+1	Pleadings are intended to limit the issues to be decided at the trial of a case and are calculated to prevent surprise.	Are pleadings intended to limit the issues to be decided at the trial of a case?	004826.docx	LEGALEASE-00116772-LEGALEASE-00116773
Ampco Auto Parks v. Williams, 517 S.W.2d 401	50+14(1)	In bailment for mutual benefit of bailor and bailee, bailee owes bailor duty of ordinary care and safekeeping subject matter of the bailment.	Does a bailment impose a duty of ordinary care upon the bailee?	Bailment - Memo 40 - RK.docx	ROSS-003327665-ROSS-003327666

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
U. S. Fire Ins. Co. v. Paramount Fur Serv., 168 Ohio St. 431	50+12	A compensated bailee owes to his bailor a duty to exercise ordinary care to protect the bailed property, but a constructive bailee like any other uncompensated bailee, does not ordinarily owe the owner the duty to exercise ordinary care and, therefore, is not liable to owner for mere negligence in protecting the property.	Does a compensated bailee owe any kind of duty to his bailor?	Bailment - Memo 43 - RK.docx	ROSS-003326508-ROSS-003326509
Fireman's Fund Ins. Co. v. Wagner Fur, 760 F. Supp. 1101	50+16	Any unauthorized delivery of bailed property by bailee, even delivery to wrong person resulting from bailee's good-faith mistake, constitutes "conversion."	Does the unauthorized delivery of property by the bailee to the wrong person constitute conversion?	004962.docx	LEGALEASE-00116980-LEGALEASE-00116982
State v. Weaver, 160 N.C. App. 613	146+9	In embezzlement context, although defendant's possession of the entrusted property may be actual or constructive, even constructive possession of property requires an intent and capability to maintain control and dominion over it. West's N.C.G.S.A. S 14-90.	What kind of possession required to establish prima facie case of an offence of embezzlement?	Embezzlement - Memo 29 - RK.docx	LEGALEASE-00002969-LEGALEASE-00002970
Sokol Holdings v. BMB Munai, 542 F.3d 354	25T+112	While obligation to arbitrate depends on consent, such consent need not always be expressed in formal contract made with the party demanding arbitration.	Should consent to arbitrate be expressed in a formal contract?	005199.docx	LEGALEASE-00116851-LEGALEASE-00116853
Adamovic v. METME Corp., 961 F.2d 652	25T+113	Federal policy favoring arbitration does not give courts license to compel arbitration absent agreement to do so.	Does Federal policy favoring arbitration give courts license to compel arbitration?	Alternative Dispute Resolution - Memo 109 - JS.docx	ROSS-003296724-ROSS-003296725
In re Involuntary Dissolution of Battle Creek State Bank, 254 Neb. 120	172H+202	Banking corporations are quasi-public institutions in the sense that whole stream of commerce, whether interstate or intrastate, largely depends upon their existence.	"What is the nature of a banking corporation, under the law?"	005271.docx	LEGALEASE-00116914-LEGALEASE-00116915
Kyung Sup Ahn v. Rooney, Pace Inc., 624 F. Supp. 368	25T+112	Whether party has or has not agreed to arbitrate is determined on basis of ordinary contract principles.	Is it determined based on ordinary contract principles whether parties have agreed to arbitrate?	Alternative Dispute Resolution - Memo 125 - JS.docx	ROSS-003283060-ROSS-003283062
Cent. Illinois Light Co. v. Illinois Pollution Control Bd., 17 Ill. App. 3d 699	1.49E+19	Decision of the Pollution Control Board must be based on record, and material findings of fact must be supported by evidence. S.H.A. ch. 1111/212, S 1001 et seq.	Should the Pollution Control Board base its decision on the information and facts present on the record in a case?	005041.docx	LEGALEASE-00117226-LEGALEASE-00117227
State v. Flores, 2015 WL 5038535	207+2	Aggravated incest statute was not unconstitutionally vague on ground that it punished acts made criminal elsewhere in Criminal Code and granted prosecutorial discretion in choosing among various offenses in charging defendant; aggravated incest statute most closely described defendant's conduct, and public policy of protecting juvenile family members from adult relatives outweighed any unfairness caused by increased penalty. LSA-R.S. 14:4, 14:78.1; LSA-Const. Art. 5, S 26; LSA-C.Cr.P. art. 61.	Are aggravated incest statutes unconstitutionally vague?	000459.docx	LEGALEASE-00117428-LEGALEASE-00117429
Willison v. Watkins, 28 U.S. 43	233+650	The principle of estoppel applies to the relation between landlord and tenant and operates in its full force to prevent tenant from violating contract whereby he obtained and holds possession.	Is a tenant estopped from questioning his landlords title?	000485.docx	LEGALEASE-00117309-LEGALEASE-00117310
J.C. Penney Co. v. Giant Eagle, 813 F. Supp. 360	233+501	Pennsylvania follows modern view which treats landlord-tenant relations in light of principles of contract law, as opposed to property law.	Are Landlord Tenant relations interpreted according to principles of contract law?	Landlord and Tenant - Memo 16 - RK.docx	LEGALEASE-00003809-LEGALEASE-00003810

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Reade v. Reva Holding Corp., 30 A.D.3d 229	386+40(4)	Allegations that contractor hired by landlord to add a second story to building failed to properly cover and seal exploratory holes that it opened in the roof, which allegedly resulted in leaks into tenant's store and, on at least two occasions, allegedly caused water pipes to freeze and burst, stated claim that landlord and contractor committed a trespass upon the demised premises by causing water and debris to be deposited therein, without any right to do so.	Can trespass be caused by causing a foreign substance to enter onto another's property?	000752.docx	LEGALEASE-00117448- LEGALEASE-00117449
Primerica Life Ins. Co. v. Brown, 304 F.3d 469	25T+139	Federal Arbitration Act (FAA) expresses strong national policy favoring arbitration of disputes, and all doubts concerning arbitrability of claims should be resolved in favor of arbitration. 9 U.S.C.A. S 1 et seq.	How do courts resolve claims when there are doubts concerning arbitrability?	004917.docx	LEGALEASE-00117385- LEGALEASE-00117386
Ashley v. State, 527 S.W.2d 302	350H+1251	Sentence to be served, either actually confined, or on probation or parole, has no effect on time at which conviction becomes final for purposes of enhancement of punishment in subsequent case. V.T.C.A., Penal Code S 12.42(d).	Does the sentence to be served have any effect on the finality of the conviction?	004975.docx	LEGALEASE-00117303- LEGALEASE-00117304
Dep't of Welfare v. Brock, 306 Ky. 243	98+21	The old common-law rule depriving felons of civil rights has been relaxed and felons may now own, inherit and transmit property, sue and be sued, and have most of the rights accorded other persons.	"Can a felon hold, inherit and dispose of property?"	004984.docx	LEGALEASE-00117316- LEGALEASE-00117317
People v. Sales, 116 Cal. App. 4th 741	164T+26	The elements of the crime of attempted extortion are (1) a specific intent to commit extortion and (2) a direct ineffectual act done towards its commission. West's Ann.Cal.Penal Code S 524.	Is extortion a specific intent crime?	005048.docx	LEGALEASE-00117389- LEGALEASE-00117390
GP Credit Co. v. Orlando Residence, Ltd., 349 F.3d 976	315+22	In general, intangible personal property is "located" in its owner's domicile, although there are exceptions, such as where the documents of title are in a state that is not the owner's domicile.	What is the general rule regarding the location of intangible personal property?	Property - Memo 20 - JS.docx	ROSS-003310904-ROSS- 003310905
Reade v. Reva Holding Corp., 30 A.D.3d 229	386+40(4)	Allegations that contractor hired by landlord to add a second story to building failed to properly cover and seal exploratory holes that it opened in the roof, which allegedly resulted in leaks into tenant's store and, on at least two occasions, allegedly caused water pipes to freeze and burst, stated claim that landlord and contractor committed a trespass upon the demised premises by causing water and debris to be deposited therein, without any right to do so.	Can trespass be caused by causing a foreign substance to enter onto another's property?	Trespass - Memo 47 - RK.docx	LEGALEASE-00004002- LEGALEASE-00004003
GP Credit Co. v. Orlando Residence, Ltd., 349 F.3d 976	315+22	In general, intangible personal property is "located" in its owner's domicile, although there are exceptions, such as where the documents of title are in a state that is not the owner's domicile.	What is the general rule regarding the location of intangible personal property?	Property - Memo 20 - JS.docx	LEGALEASE-00004083- LEGALEASE-00004084
Henry v. Halliburton, 690 S.W.2d 775	237+48(1)	"Fair comment" doctrine gives newspaper right fairly and honestly to comment upon matter of public interest, which is qualified privilege at common law in defamation actions.	Does the doctrine of fair comment extend to public interest?	000539.docx	LEGALEASE-00117455- LEGALEASE-00117457
Foretich v. Advance Magazine Publishers, 765 F. Supp. 1099	237+33	Defamation may be "per quod defamation," arising by innuendo from published words in combination with known extrinsic facts, or "per se defamation," appearing on the face of the publication.	Can defamation action occur from innuendos?	000557.docx	LEGALEASE-00117464- LEGALEASE-00117465
Commil USA v. Cisco Sys., 135 S. Ct. 1920	386+2	A trespass can be committed despite the actor's mistaken belief that she has a legal right to enter the property. Restatement (Second) of Torts S 164.	Does a persons mistaken belief that they have a legal right to enter the property negate a charge of trespass?	000738.docx	LEGALEASE-00117562- LEGALEASE-00117563

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Green v. State Civil Serv. Comm'n, 90 Ohio St. 252	316P+81	Civil service law, authorizing civil service commission to provide rules as to civil service, are not a delegation of powers to enact laws in violation of Const. art. 1, S 18.	Does authorizing a Civil Service Commission to provide rules to the civil service constitute a delegation of legislative power?	Administrative Law - Memo 55 - RK.docx	LEGALEASE-00004357-LEGALEASE-00004358
State v. Nelson, 158 Wash. 2d 699	92+4356	Because a driver's license is a property interest protected by the due process clauses of the United States and Washington Constitutions, before a driver's license may be revoked, the government must provide the licensee with notice and opportunity for hearing appropriate to the nature of the case. U.S.C.A. Const.Amend. 14.	Are the due process rights of notice and hearing required in an administrative proceeding?	Administrative Law - Memo 58 - RK.docx	LEGALEASE-00004364-LEGALEASE-00004366
In re Edwards, 537 B.R. 797	315+370	Under Texas law, when a claim of adverse possession is made against a co-owner, the party seeking title by adverse possession must prove an ouster of the co-tenant not in possession or repudiation of the co-tenancy relationship.	Must an ouster by a tenant be proved?	Landlord and Tenant - Memo 33 - TH.docx	ROSS-003285671-ROSS-003285673
Salisbury v. Smith, 115 A.D.2d 840	48A+20	Certificate of title is not conclusive on issue of ownership of vehicle, but rather is prima facie evidence of ownership, and presumption of ownership arising from certificate is subject to rebuttal.	Can a certificate of title be prima facie evidence of vehicle ownership?	000687.docx	LEGALEASE-00117594-LEGALEASE-00117595
Green v. State Civil Serv. Comm'n, 90 Ohio St. 252	316P+81	Civil service law, authorizing civil service commission to provide rules as to civil service, are not a delegation of powers to enact laws in violation of Const. art. 1, S 18.	Does authorizing a Civil Service Commission to provide rules to the civil service constitute a delegation of legislative power?	000351.docx	LEGALEASE-00117706-LEGALEASE-00117707
Grant v. Detroit Ass'n of Women's Clubs, 443 Mich. 596	233+513	Caretaker allowed to occupy apartment in building in return for his services established existence of landlord-tenant relationship, to extent required to defeat summary judgment in favor of building owner which had terminated his employment and locked him out; apartment had been provided in consideration of caretaker's labor, possession and control of apartment had been transferred to caretaker who occupied it exclusive of owner, length of tenancy was agreed upon, occupancy was independent of relationship in that caretaker did not have to live on premises, occupancy was not treated as marginal consequence of employment, and public policy against lockouts of tenant was furthered by finding of landlord and tenant relationship. M.C.L.A. S 600.2918.	Are migrants living in labor camps considered tenants?	Landlord and Tenant - Memo 28 - TH.docx	LEGALEASE-00004595-LEGALEASE-00004596
Dick v. State, 107 Md. 11	110+2197	The jury in a criminal case are judges of the law as well as the facts, and an error by the state's attorney in a prosecution of an attorney for embezzlement, under Code Pub.Gen.Laws, art. 27, S 103, prohibiting embezzlement by an agent, in telling the jury that whether defendant was an agent within the meaning of such section was something with which they had nothing to do, was not cured by a statement of the court that it was true that they jury were the judges of the law as well as the facts; that the court had decided in passing on the admissibility of testimony that an attorney was an agent within the statute, but that the jury was not compelled to accept the court's opinion, and had a perfect right to disagree with the court.	Is an attorney at law an agent within the statute of embezzlement?	000396.docx	LEGALEASE-00117843-LEGALEASE-00117845

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Nelson v. State Acc. Ins. Fund, 43 Or. App. 155	207+1	Statute proscribing incest and statute proscribing rape of a child are not addressed to same subject matter, and incest is not more specific criminalization of conduct covered by rape of a child, notwithstanding fact that same conduct will in some instances violate both statutes. V.T.C.A., Penal Code SS 21.09, 25.02.	Is incest a more specific criminalization of conduct covered by rape of a child?	Incest - Memo 9 - TH.docx	ROSS-003298221-ROSS-003298222
Ikomoni v. Exec. Asset Mgmt., 309 Ga. App. 81	233+1745	The exclusive method whereby a landlord may evict a tenant is through a properly instituted statutory dispossession action. West's Ga.Code Ann. S 44-7-50 et seq.	What is the exclusive method available to a landlord to evict a tenant?	Landlord and Tenant - Memo 34 - TH.docx	ROSS-003284675-ROSS-003284676
Brown & Williamson Tobacco Corp. v. Jacobson, 713 F.2d 262	237+116	In general, damages remedies in defamation cases can include compensatory damages which may be either general or special, punitive or exemplary damages, and nominal damages.	What damage remedies available in defamation cases?	000580.docx	LEGALEASE-00117922-LEGALEASE-00117923
Camacho v. Honda Motor Co., 741 P.2d 1240	313A+208	Under "crashworthiness" doctrine, manufacturer of motor vehicle need not make vehicle absolutely safe, but need only provide some measure of reasonable, cost-effective safety in the foreseeable use of its product.	Is a manufacturer required under law to make a vehicle absolutely safe?	000653.docx	LEGALEASE-00117909-LEGALEASE-00117910
State v. Connecticut Employees Union Indep., 322 Conn. 713	25T+312	Given the narrow scope of the public policy limitation on arbitral authority, the trial court's order vacating the arbitrator's award should be upheld only if the plaintiff demonstrates that the award clearly violated an established public policy mandate.	Can a trial court vacate the arbitration award on the grounds of public policy?	Labor and Employment - Memo 3 - VP.docx	LEGALEASE-00004770-LEGALEASE-00004771
State ex rel. Yeagley v. Harden, 68 Ohio St. 3d 136	302+2	Civil rules regarding pleadings do not apply to special statutory proceedings to extent that they would by their nature be clearly inapplicable. Rules Civ.Proc., Rule 1(C)(7).	Do Civil Rules apply to special statutory proceedings?	Pleading - Memo 24 - ANG.docx	ROSS-003285196-ROSS-003285197
Chicago, R.I. & P.R. Co. v. Linwood Stone Prod. Co., 258 Iowa 1378	302+4	Designation given a pleading is not of vital importance; its character is to be determined largely by its allegations and legal effect, not solely from name given it.	Is the character of a pleading determined by its allegations?	000870.docx	LEGALEASE-00117944-LEGALEASE-00117945
Burt v. Beautiful Savior Lutheran Church of Broomfield, 809 P.2d 1064	386+10	"Trespass" is physical intrusion upon property of another without permission of person lawfully entitled to possession of real estate, and liability requires only intent to do act that itself constitutes or inevitably causes intrusion, without reference to nature or immediacy of harm or whether intrusion was caused by negligent act.	Does liability for trespass requires only an intent to do the act that itself constitutes the intrusion?	000884.docx	LEGALEASE-00117946-LEGALEASE-00117947
Opalinski v. Robert Half Int'l Inc., 761 F.3d 326	25T+200	Because parties frequently disagree whether a particular dispute is arbitrable, courts play a limited threshold role in determining whether the parties have submitted a particular dispute to arbitration, in other words the question of arbitrability. 9 U.S.C.A. S 1 et seq.	Can an arbitrator decide an issue if the parties have not authorized him to do so?	Alternative Dispute Resolution - Memo 152 - RK.docx	ROSS-003287114-ROSS-003287115
China Auto Care v. China Auto Care (Caymans), 859 F. Supp. 2d 582	25T+138	Federal public policy strongly favors arbitration as an alternative means of dispute resolution, and this policy requires the court to construe arbitration clauses as broadly as possible. 9 U.S.C.A. S 2.	How broadly do the courts construe arbitration clauses under current federal policy?	001009.docx	LEGALEASE-00118009-LEGALEASE-00118011
State v. Nelson, 158 Wash. 2d 699	203+505	Elements of "homicide by arson" are: occurrence of a fire which causes death of a person; opportunity on part of accused to set fire; and an incendiary fire, which was ignited by accused.	What are the elements of homicide by arson?	001072.docx	LEGALEASE-00118072-LEGALEASE-00118073

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State v. Standard, 232 Or. 333	203+839	To state crime of involuntary manslaughter in doing of lawful act, indictment must set forth in detail acts or omissions which were performed without due caution or circumspection, pleaded as in civil actions for negligence. ORS 163.040.	Can a crime be committed by an otherwise lawful act performed without due caution?	001080.docx	LEGALEASE-00118080- LEGALEASE-00118081
D.R. Horton v. N.L.R.B., 737 F.3d 344	25T+210	When considering whether contrary congressional command is present, courts must remember that questions of arbitrability must be addressed with healthy regard for federal policy favoring arbitration; party opposing arbitration bears burden of showing whether congressional command exists, and any doubts are resolved in favor of arbitration. 9 U.S.C.A. S 1 et seq.	What burden is placed upon the party who opposes arbitration?	Alternative Dispute Resolution - Memo 169 - RK.docx	ROSS-003289226-ROSS-003289227
Price v. Vattes, 161 S.W.3d 397	289+501	Court never presumes that a partnership exists and the burden is upon the party asserting its existence to establish all elements of a partnership by clear, cogent, and convincing evidence.	Who has the burden of proving the existence of a partnership?	Partnership - Memo 18 - JS.docx	ROSS-003295139-ROSS-003295140
Southex Exhibitions v. Rhode Island Builders Ass'n., 279 F.3d 94	289+421	Partnership is a notoriously imprecise term, whose definition is especially elusive in practice, and since a partnership can be created absent any written formalities whatsoever, its existence vel non normally must be assessed under a "totality-of-the-circumstances" test.	Does the totality of the circumstances test govern partnership formation?	000619.docx	LEGALEASE-00118286- LEGALEASE-00118287
Newman v. Corbman, 47 F.Supp. 1021	289+426(1)	The mere fact of joint ownership does not establish a "partnership" nor is the sharing of net profits conclusive of such relationship.	Does a joint ownership or sharing of profits alone establish a partnership?	000625.docx	LEGALEASE-00118280- LEGALEASE-00118281
Holiday Inns v. Pollution Control Bd., 27 Ill. App. 3d 704	149E+663	Issue of whether pollution control board's denial of requested variance from compliance with effluent standards for one year was arbitrary and caused an unreasonable hardship was moot where time period for which variance was requested or could have been granted had expired since no proceedings were ever brought to impose a fine or penalty for violation of any rule or regulation. S.H.A. ch. 1111/212, SS1001 et seq., 1030-1036, 1036(b), 1042-1045.	Can the Pollution Control Board impose penalties as a condition to granting variance?	05356.docx	LEGALEASE-00080803- LEGALEASE-00080804
Forrest v. Durnell, 86 Tex. 647	233+720	The relation of landlord and tenant does not exist unless there be a reversionary interest in the former; and out of this arises the distinction between assignments of leases and under-leases. If a lessee parts with his whole term in all the rented premises, no reversionary interest remains in him and a person taking through him is an assignee liable to payment to the landlord as the original lessee contracted to pay. If he rents parts of it to different persons for the entire term, such persons to the extent of their several holdings are also assignees and in so far liable to the lessor, just as was the original lessee.	Is the relationship between a landlord and a tenant created by the existence of a reversionary interest in the property?	000951.docx	LEGALEASE-00118190- LEGALEASE-00118192
Sw. Elec. Power Co. v. Certain Underwriters at Lloyds of London, 772 F.3d 384	221+292	The Federal Arbitration Act (FAA) governs appellate review of arbitration orders, including those arising under the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. 9 U.S.C.A. SS 16, 208.	Does the Federal Arbitration Act govern appellate review of arbitration orders?	001176.docx	LEGALEASE-00118416- LEGALEASE-00118417
Franklin v. State ex rel. Alabama State Milk Control Bd., 232 Ala. 637	92+1111	Right of citizen to enjoyment of, and exercise of dominion over, property is not absolute, but is subject to regulation by state when required by public interest.	Are the property rights of citizens absolute?	001253.docx	LEGALEASE-00118326- LEGALEASE-00118327

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Monteleone v. Airey, 57 So.2d 257	289+411	A partnership and a corporation are two different and distinct legal entities and the rights and obligations of a partner are not similar to the rights and obligations of a stockholder in a corporation.	Are corporations and partnerships two different entities?	022311.docx	LEGALEASE-00118165- LEGALEASE-00118166
Matthews v. Malkus, 377 F. Supp. 2d 350	386+1	Under New York law, requisite elements for claim of trespass are: (1) intentional entry by defendants onto plaintiff's land, and (2) wrongful use without justification or consent.	What are the elements of a trespass claim?	Trespass - Memo 27 - RK.docx	LEGALEASE-00005920- LEGALEASE-00005921
Sisk v. State, 260 So. 2d 485	146+29	Indictment charging defendant with embezzlement of tractor parts was subject to demurrer where the ownership of the property taken was not shown, the property taken was not described in language sufficiently definite so as to identify it, and the value of the various parts was not alleged. Code 1942, SS 2123, 2538.	Is it necessary that the indictment charging embezzlement describe the property taken?	001234.docx	LEGALEASE-00118581- LEGALEASE-00118582
Hogoboom v. State, 120 Neb. 525	146+29	Value of property constitutes essential element of information charging embezzlement. Comp.St.1922, S 10154, and S 9629, as amended by Laws 1923, c. 95.	Does value of property constitute an essential element of information charging embezzlement?	Embezzlement - Memo 57 - JS.docx	LEGALEASE-00005985- LEGALEASE-00005987
Woods v. Com., 2003 WL 1389108	207+4	Victim was under 12 years old when sexual abuse charges occurred, which was only relevant time element necessary to support convictions for sexual abuse and incest, thus, that victim's date of birth was never established and that jury instructions for sexual offenses contained erroneous dates would not support directed verdict; date of act of incest was not necessary element of offense and it was sufficient that Commonwealth proved offense was committed prior to rendition of indictment. KRS 510.110(1)(b)(2).	Is the date of the offense a specific element of aggravated incest?	001477.docx	LEGALEASE-00118655- LEGALEASE-00118656
JS & H Const. Co. v. Richmond Cty. Hosp. Auth., 473 F.2d 212	25T+113	Courts are bound to take notice of expressed policy of Congress favoring arbitration before litigation. 9 U.S.C.A. SS 1-14.	Are the courts bound to take notice of the federal policy in favor of arbitration?	001677.docx	LEGALEASE-00118721- LEGALEASE-00118722
State v. Posenjak, 127 Wash. App. 41	209+119	Only the tribe that signed the treaty, or the signatory tribe, can exercise treaty rights; individual Indians do not have any treaty rights, even if they are descendents of the signors of the treaty, because a treaty is a contract between sovereigns, not individuals.	Who may exercise treaty rights under Indian treaties?	001790.docx	LEGALEASE-00118794- LEGALEASE-00118795
Rohrs v. Rohrs, 17 A.D.3d 659	249+34	To recover damages for malicious prosecution, plaintiff must establish that underlying criminal action was terminated in his or her favor.	When does a cause of action to recover damages for malicious prosecution arise?	001834.docx	LEGALEASE-00118813- LEGALEASE-00118814
Colbert v. City of Chicago, 851 F.3d 649	249+3	Under Illinois law, plaintiff may not maintain malicious-prosecution claim against arresting officer without first showing some postarrest action that influenced prosecutor's decision to indict.	When will an officer be held liable for malicious prosecution?	001838.docx	LEGALEASE-00118688- LEGALEASE-00118689
Sherman v. Boston, 486 S.W.3d 88	46H+86	Legal entities, such as a corporation or a limited liability company, generally may appear in a district or county court only through a licensed attorney.	Does a corporation or a partnership need to be represented by a licensed attorney?	001854.docx	LEGALEASE-00118779- LEGALEASE-00118780
Malawey v. Malawey, 137 S.W.3d 518	76D+127	Joint legal custody is appropriate only where parents display the willingness and ability to share the rights and responsibilities of raising their children. V.A.M.S. S 452.375, subd. 1(2).	When is joint legal custody appropriate?	Child Custody - Memo 9 - ANG.docx	ROSS-003302169-ROSS- 003302170
Stueve Bros. Farms v. United States, 737 F.3d 750	148+2.1	Government's delay in acquiring property, even when it ultimately intends to acquire property, is normally not enough to constitute taking. U.S.C.A. Const.Amend. 5.	Does the governments delay in acquiring a property constitute a taking?	Eminent Domain -Memo 68-VP.docx	ROSS-003282804-ROSS- 003282805

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
St. Christopher Assocs. v. United States, 511 F.3d 1376	148+2.33	Generally, takings claims do not arise under a government contract because the government is acting in its proprietary rather than its sovereign capacity, and because remedies are provided by the contract. U.S.C.A. Const.Amend. 5.	Under what capacity does the government act when it initiates a taking?	001544.docx	LEGALEASE-00119006-LEGALEASE-00119007
People v. Catlin, 26 Cal. 4th 81	203+566	As long as the jury finds in murder prosecution that without the criminal act the death would not have occurred when it did, it need not determine which of the concurrent causes was the principal or primary cause of death, but only whether the criminal act was a substantial factor contributing to the result, even if victim's preexisting physical condition was also a substantial factor causing death.	Can a victims preexisting physical condition destroy defendants responsibility for a death?	Homicide - Memo 41 - TH.docx	LEGALEASE-00006843-LEGALEASE-00006844
Oneida Indian Nation of New York v. New York, 194 F. Supp. 2d 104	209+174	Accord and satisfaction, unclean hands, and waiver were not defenses to claim that requirement of Nonintercourse Act of federal approval of Indian land transactions was not satisfied; allowing such state law-based defenses in Indian land claim action would have contravened established policy pertaining to Indians' ability to enforce their property rights, and would have contradicted federal policy regarding requirements under Nonintercourse Act. 25 U.S.C.A. S 177.	Will Indian land transactions be unlawful under the Nonintercourse Act unless approved by the United States?	Indians - Memo 25 - TH.doc	ROSS-003283348-ROSS-003283350
Madera Production Co. v. Atlantic Richfield Co., 107 S.W.3d 652	13+16	The true nature of any lawsuit depends upon the facts alleged in the petition, the rights asserted, and the relief sought, not the terms used to describe the cause of action.	What determines the nature of a suit?	001872.docx	LEGALEASE-00118883-LEGALEASE-00118884
Meadows v. Blake, 36 So.3d 1225	302+34(1)	A court must look to the content of the pleading to determine the nature of the action; substance is considered over form, and the label is not controlling.	Is the nature or character of a pleading determined from its content?	Pleading - Memo 43 - TH.docx	ROSS-003287658-ROSS-003287660
Tarulli v. Circuit City Stores, 333 F. Supp. 2d 151	25T+114	The Federal Arbitration Act (FAA) covers arbitration provisions that are contained in employment contracts and arbitration agreements. 9 U.S.C.A. S 1 et seq.	Does the Federal Arbitration Act (FAA) cover arbitration provisions contained in employment contracts?	Alternative Dispute Resolution - Memo 243 - RK.docx	ROSS-003284465-ROSS-003284467
Hatfield v. Green, 840 So.2d 759	289+453	Absent an express agreement, the chief criterion in determining the existence of a partnership is the parties' intent and this intent may be inferred from the parties' actions and conduct. West's A.M.C. S 79-12-11.	Can the existence of a partnership be determined absent an express partnership agreement?	002310.docx	LEGALEASE-00119166-LEGALEASE-00119167
Hayes v. State, 341 S.W.3d 293	401+2	A civil rights claim is typically a transitory action in terms of evaluating venue; a transitory cause of action may become local when a statute prescribes a particular county in which they must be brought.	When do transitory actions become local?	Venue - Memo 55-ANG.docx	ROSS-003284223-ROSS-003284224
Pennsylvania Elec. Co. v. Morrison, 354 Pa. 472	145+3	The sections of Electric Cooperative Corporation Act, exempting corporations organized thereunder from Public Utility Commission's jurisdiction and control and providing that other laws of commonwealth shall not apply to such corporations, render filing of certificate of public convenience, obtained from Public Utility Commission, by proposed electric cooperative corporation unnecessary before issuance of certificate of incorporation to it. 14 P.S. SS 282, 288; 46 P.S. S 552(1).	Is a cooperative incorporated under Electric Cooperative Corporation Act a public utility?	002202.docx	LEGALEASE-00119338-LEGALEASE-00119339

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State v. Lung, 70 Wash. 2d 365	203+511	Corpus delicti in homicide case requires fact of death and causal connection between death and criminal agents, but establishment of corpus delicti does not require proof of causal relation between death and accused.	Can corpus delicti be established by circumstantial evidence?	002240.docx	LEGALEASE-00119296- LEGALEASE-00119297
Howard v. Commonwealth, 484 S.W.3d 295	207+5	In the context of the statute criminalizing incest between a stepparent and stepchild, "stepchild" refers to the son or daughter of one's spouse by a former partner at any age. Ky. Rev. Stat. Ann. S 530.020(1).	Is sexual intercourse considered incest between step-father and a step-child who has reached the age of majority?	002257.docx	LEGALEASE-00119248- LEGALEASE-00119249
State v. Clevenger, 69 Wash. 2d 136	207+4	"Corpus delicti of incest" consists of an act of sexual intercourse between male and female persons within prohibited degrees of relationship to each other.	What is the corpus delicti of incest?	Incest - Memo 44 - JS.docx	ROSS-003299664-ROSS- 003299665
Crab Boat Owners Ass'n v. Hartford Ins. Co. of the Midwest, 325 F.Supp.2d 1057	386+2	Under California law, pleading of intentional trespass will not restrict jury to finding liability only on showing of intentional conduct; showing of negligence can also prove liability.	Can a showing of negligence prove liability for trespass?	Trespass - Memo 57 - JS.docx	ROSS-003309844-ROSS- 003309845
Millers Mut. Ins. Ass'n of Illinois v. Graham Oil Co., 282 Ill. App. 3d 129	386+10	One may be liable in trespass for causing thing or third person to enter land of another either through negligent act or intentional act.	Can a showing of negligence prove liability for trespass?	002318.docx	LEGALEASE-00119172- LEGALEASE-00119173
Murray v. Neth, 279 Neb. 947	15A+1107	As a general rule, administrative agencies have no general judicial powers, even though they may perform some quasi-judicial duties.	Do administrative agencies have general judicial powers?	Administrative Law - Memo 165 - RK.docx	ROSS-003312143-ROSS- 003312145
Hahn v. Neth, 270 Neb. 164	15A+1107	As a general rule, administrative agencies have no general judicial powers, even though they may perform some quasi-judicial duties.	Do administrative agencies have general judicial powers?	002346.docx	LEGALEASE-00119423- LEGALEASE-00119424
Minnesota Ctr. for Env'tl. Advocacy v. Metro. Council, 587 N.W.2d 838	73+1	"Certiorari" is an extraordinary remedy only available to review judicial or quasi-judicial proceedings and actions; conversely, it is not available to review legislative or administrative actions.	Is certiorari available when the acts sought to be reviewed are of legislative or administrative character?	Administrative Law - Memo 173 - RK.docx	ROSS-003297461-ROSS- 003297462
Coos Cty. Sheep Co. v. United States, 331 F.2d 456	145+9(1)	Under Oregon law, rights acquired under an easement for an electric power transmission line granting right to remove trees and make clearings necessary was right to remove trees and make such clearing as might have been necessary for erection of the line, and right to trim overhanging branches of trees which interfered with the wires if such trimming was reasonably necessary to ensure safe operation of the line.	Can company supplying electricity trim branches of trees interfering with wires if necessary for safety and enjoyment of franchise privileges?	Electricity - Memo 11 - JS.docx	LEGALEASE-00007757- LEGALEASE-00007758
In re Miller, 114 F. 838	8.30E+41	Under Nevada law, casino marker is type of check, drawn on customer's bank account designated in the instrument, and is subject to legal regime governing checks.	Is a casino marker a check?	002054.docx	LEGALEASE-00119450- LEGALEASE-00119451
HS Tejas, Ltd. v. City of Houston, 462 S.W.3d 552	148+2.1	In at least some circumstances courts may consider federal and state takings claims together, as the analysis for both is complementary.	Is the analysis for federal and state takings complementary?	Eminent Domain - Memo 83 - RK.docx	ROSS-003298651-ROSS- 003298652

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Greer v. Nat'l Grid, 89 A.D.3d 1059	249+26	In action, inter alia, to recover damages for malicious prosecution, allegation that criminal prosecution would not have been initiated against plaintiff had defendant properly trained and supervised its employees failed to state cognizable claim, since action arose from same facts as first cause of action alleging malicious prosecution, allegations of negligence did not support malicious prosecution cause of action, and cause of action to recover damages for negligent prosecution was not recognized in New York.	Does negligent prosecution supports malicious prosecution?	05265.docx	LEGALEASE-00082102- LEGALEASE-00082103
Rehoboth Mall Ltd. P'ship v. NPC Int'l, 953 A.2d 702	233+590	Delaware courts do not give any particular significance to the use of the words "renew" or "extend," in deciding whether a new lease has been created; rather, applying traditional contract principles, Delaware courts determine the intent of the parties from the language of the lease.	Do the courts apply traditional contract principles while interpreting lease provisions?	001950.docx	LEGALEASE-00119690- LEGALEASE-00119691
Metro. Dist. v. Hous. Auth. of City of Hartford, 12 Conn. App. 499	317A+101	Metropolitan district, as a municipal corporation rendering utility services in the form of sewer services, was a "municipal utility," within meaning of utility receivership statute. C.G.S.A. S 16-262f.	Is a municipal corporation rendering utility services in the form of sewer services a municipal utility?	001979.docx	LEGALEASE-00119676- LEGALEASE-00119677
Commonwealth v. Butterick, 100 Mass. 12	8.30E+66	An order for the payment of money drawn by a person on himself, payable to his own order, and by himself accepted and indorsed, may be treated as a bill of exchange.	"Is a bill drawn by a person, payable to his own order, a bill of exchange?"	00762.docx	LEGALEASE-00081580- LEGALEASE-00081582
Lim v. Offshore Specialty Fabricators, 404 F.3d 898	25T+116	Foreign arbitration clauses are deemed a subset of foreign forum selection clauses in general; therefore, analysis of foreign forum selection clauses can be extended to foreign arbitration clauses.	Do courts consider foreign arbitration clauses as a subset of foreign forum selection clauses?	05243.docx	LEGALEASE-00082108- LEGALEASE-00082110
Lynn v. Allied Corp., 41 Ohio App. 3d 392	253+1076(3)	Derivative cause of action for loss of consortium cannot provide greater relief than relief permitted for primary cause of action.	May a derivative cause of action provide greater relief than that available under a primary cause of action?	Action - Memo 32 - ANG.docx	ROSS-003297914-ROSS- 003297915
Simpson v. Estate of Simpson, 922 So. 2d 1027	162+243	The term "independent action" in statute requiring a claimant against an estate to "bring an independent action upon the claim" if an objection to the claim is filed requires the filing of a separate action upon a claim against the estate; this requirement allows pleadings and responses sufficient to set the issues before the court prior to hearing. West's F.S.A. S 733.705(4, 5).	Do independent action requires the filing of a separate action upon a claim against an estate?	Action - Memo 43 - RM.docx	ROSS-003298314-ROSS- 003298315
Feigenbaum v. Guaracini, 402 N.J. Super. 7	366+38	The doctrine of equitable subrogation should not be imposed where its enforcement would be inconsistent with the terms of a contract or when the contract, either expressly or by implication, forbids its application.	When may equitable subrogation be imposed?	05267.docx	LEGALEASE-00082085- LEGALEASE-00082086
Sun Valley Fin. Servs. of Phoenix v. Guzman, 212 Ariz. 495	366+1	Application of the doctrine of equitable subrogation depends upon the particular facts and circumstances of each case, and subrogation can only be granted when an equitable result will be reached.	What does the application of subrogation depend upon?	Subrogation - Memo 12 - VP.docx	ROSS-003301698-ROSS- 003301699
Hunt v. N. Carolina Logistics, 193 F. Supp. 3d 1253	217+3512	New Mexico law recognizes that the doctrine of subrogation allows an insurer who has fully compensated the insured to step into the shoes of the insured and collect what it has paid from the wrongdoer.	What does subrogation allow?	002549.docx	LEGALEASE-00119988- LEGALEASE-00119989

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Allstate Ins. Co. v. Palumbo, 109 Conn. App. 731	366+1	Although subrogation is a highly favored doctrine which courts should be inclined to extend rather than restrict, there is no general rule to determine whether a right of subrogation exists.	What does ordering subrogation depend on?	002592.docx	LEGALEASE-00120079-LEGALEASE-00120080
In re Farris, 229 Or. 209	46H+942	No attorney should be appointed as prosecutor in disbarment proceeding if he was counsel for client interested in case.	Can an attorney be appointed as prosecutor in a disbarment proceeding if he was counsel for a client interested in the disbarment case?	Administrative Law - Memo 176 - RK.docx	ROSS-003297494
Thomson-CSF, S.A. v. Am. Arbitration Ass'n, 64 F.3d 773	25T+141	Traditional principles of agency law may bind nonsignatory to arbitration agreement.	Do the traditional principles of agency law bind a nonsignatory to an arbitration agreement?	002644.docx	LEGALEASE-00120022-LEGALEASE-00120023
Mecum v. Weilert Custom Homes, 239 F. Supp. 3d 1093	170B+3053	Whether a binding arbitration agreement exists is determined under the principles of state contract law.	Which principles of law are utilized to determine the existence of a binding arbitration agreement?	002665.docx	LEGALEASE-00120068-LEGALEASE-00120070
Bahoor v. Varonis Sys., 152 F. Supp. 3d 1091	170B+3053	Whether a binding arbitration agreement exists is determined under principles of state contract law.	Which principles of law are utilized to determine the existence of a binding arbitration agreement?	Alternative Dispute Resolution - Memo 300 - RK.docx	LEGALEASE-00008911-LEGALEASE-00008913
S.C. Pub. Serv. Auth. v. F.E.R.C., 762 F.3d 41	145+9(2)	Orders from Federal Energy Regulatory Commission (FERC) under FPA that merely required electricity transmission planning regions to establish processes for identifying and evaluating public policies that might affect transmission needs did not violate requirement that FERC act in such a way to facilitate "planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy (their) service obligations"; requirement would be violated only if FERC exercised its authority in manner that was at odds with needs of load-serving entities. Federal Power Act, S 217(b)(4), 16 U.S.C.A. S 824q(b)(4).	Does the Federal Power Act give the Federal Energy Regulatory Commission (FERC) the authority to order involuntary wheeling of electric power?	002706.docx	LEGALEASE-00120195-LEGALEASE-00120196
Olson v. Cty. of Shasta, 5 Cal. App. 3d 336	148+266	An action in inverse condemnation is generally available only where taking results in property damage or destruction or other depreciation in market value or unlawfully dispossesses owner.	Is the risk of future flooding considered an act for purposes of a taking?	002730.docx	LEGALEASE-00120217-LEGALEASE-00120218
Nguyen v. Burgerbusters, 182 N.C. App. 447	249+28	In an action for malicious prosecution, the malice element may be satisfied by a showing of either actual or implied malice; implied malice may be inferred from want of probable cause in reckless disregard of the plaintiff's rights.	How is the element of malice satisfied in an action for malicious prosecution?	002757.docx	LEGALEASE-00120250-LEGALEASE-00120251
State v. Crisman, 123 Idaho 27	221+179	Receiving state's executive branch must recognize sovereignty of other state before diplomatic immunity exists.	Should the receiving state recognize the sovereignty of the other state before diplomatic immunity exists?	Ambassadors and Consuls - Memo 1 - TH.docx	ROSS-003300911-ROSS-003300913
United States v. Al Sharaf, 183 F. Supp. 3d 45	221+179	Under the Vienna Convention on Diplomatic Relations, a diplomat enjoys immunity from the criminal jurisdiction of the host country, subject to certain restrictions.	Does a diplomat enjoy immunity from the criminal jurisdiction of the host country?	002823.docx	LEGALEASE-00119856-LEGALEASE-00119857
Smith v. McMullen, 589 F. Supp. 642	237+7(1)	Under Texas law, when a statement unambiguously and falsely imputes criminal conduct to another, it is actionable slander per se, and it is error to allow a jury to determine whether such statements are defamatory.	Does falsely imputing a criminal offense constitute slander per se?	002888.docx	LEGALEASE-00119874-LEGALEASE-00119876
Ford Motor Credit Co. v. Ditton, 52 Ala. App. 555	386+6	Gist of action of trespass is an injury to the possession of personal property by use of unlawful force which is essential element of action.	Is unlawful force an essential element of trespass?	Trespass - Memo 73 - TH.docx	ROSS-003295151-ROSS-003295152

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Stephan v. United States, 133 F.2d 87	384+2	The constitutional definition of treason has left no room for constructive treason, and Congress could not and has not undertaken to restrict or enlarge the constitutional definition. 18 U.S.C.A. S 2381; U.S.C.A. Const. art. 3, S 3, cl. 1.	Can Congress restrict or enlarge the constitutional definition of treason?	003674.docx	LEGALEASE-00120282- LEGALEASE-00120283
Chicago W. Div. Ry. Co. v. Rend, 6 Ill. App. 243	386+4	Where an injury is inflicted to a plaintiff's right by a willful act of force, it constitutes a trespass.	Can an injury inflicted to a plaintiff's right by a willful act constitute a trespass?	003678.docx	LEGALEASE-00120286- LEGALEASE-00120287
Ryals v. U.S. Steel Corp., 562 So. 2d 192	272+1045(3)	Duty owed by landowner to adult trespasser who comes upon land and is injured while committing crime is duty not intentionally to injure trespasser.	Is there a duty upon the landowner not to injure the trespasser using needless violence?	003693.docx	LEGALEASE-00120295- LEGALEASE-00120296
United States v. Al Sharaf, 183 F. Supp. 3d 45	221+179	Under the Vienna Convention on Diplomatic Relations, a diplomat enjoys immunity from the criminal jurisdiction of the host country, subject to certain restrictions.	Does a diplomat enjoy immunity from the criminal jurisdiction of the host country?	Ambassadors and Consuls - Memo 4 - TH.docx	LEGALEASE-00009485- LEGALEASE-00009486
People v. Mollette, 87 Misc. 2d 236	203+520	Murder, the taking of the life of another human being, has always been considered the most serious crime in civilized society, and the right to life has always been paramount in our laws, and certainly far more precious than one's right to property or other interests.	Is murder considered the most serious crime in a civilized society?	003168.docx	LEGALEASE-00120412- LEGALEASE-00120413
United States v. Reza-Ramos, 816 F.3d 1110	203+522	Federal murder statute was enacted by Congress to enlarge common law definition of murder. 18 U.S.C.A. S 1111.	Did congress pass the federal murder statute to enlarge the common law definition of murder?	003181.docx	LEGALEASE-00120492- LEGALEASE-00120493
Com. v. Matchett, 386 Mass. 492	203+520	Purpose of statute governing murder is to gradate punishment and to categorize murder as murder in first or second degree, and does not serve to transform death, without more, into murder. M.G.L.A. c. 265, S 1.	What is the purpose of the murder statute?	003183.docx	LEGALEASE-00120494- LEGALEASE-00120495
People v. Russell, 266 Mich. App. 307	92+1132(50)	Statute prohibiting sexual contact between two individuals related by blood or affinity to the third degree does not give trier of fact unstructured and unlimited discretion in finding guilt, and thus, statute is not unconstitutionally vague on its face, even though statute precludes sexual conduct between two consenting adults under some circumstances. M.C.L.A. SS 750.520e(1)(d), 750.520a(n).	Does the law prohibit all incestual sexual relations among consenting adults?	003185.docx	LEGALEASE-00120541- LEGALEASE-00120542
Underwager v. Salter, 22 F.3d 730	237+51(1)	"Actual malice," in defamation context, does not mean "ill will," but means knowledge that statement was false, or doubts about its truth coupled with reckless disregard of whether it was false.	Does knowledge of a false statement constitute actual malice?	003324.docx	LEGALEASE-00120609- LEGALEASE-00120610
Stern v. Cosby, 645 F. Supp. 2d 258	237+51(5)	In deciding whether a story was published with actual malice, a book publisher has no independent duty to investigate an author's story unless the publisher has actual, subjective doubts as to the accuracy of the story.	Does a publisher have a duty to investigate the accuracy of reports or stories?	003328.docx	LEGALEASE-00120613- LEGALEASE-00120615
Pan Am Sys. v. Hardenbergh, 871 F. Supp. 2d 6	92+2161	Under Maine law, courts determine whether an allegedly defamatory statement pertains to a public concern, protected by First Amendment, by assessing its content, form and context. U.S.C.A. Const.Amend. 1.	How do Courts determine whether statements involve a matter of public concern?	Libel and Slander - Memo 155 - RK.docx	ROSS-003322793-ROSS- 003322795
In re Entergy Corp., 142 S.W.3d 316	317A+102	In construing the Public Utility Regulatory Act (PURA) or any other statute, a court's objective is to determine and give effect to the legislature's intent. V.T.C.A., Utilities Code SS 39.001-41.104.	What is the courts objective in construing the Public Utility Regulatory Act (PURA)?	003501.docx	LEGALEASE-00120332- LEGALEASE-00120333
State Farm Mut. Auto. Ins. Co. v. Du Page Cty., 2011 IL App (2d) 100580	366+1	The right of equitable subrogation arises when a party pays a debt for which another is primarily liable and that in equity and good conscience should have been discharged by the latter.	What is the doctrine of equitable subrogation?	Subrogation - Memo 81 - ANG C.docx	ROSS-003324622-ROSS- 003324624

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Suffolk Const. Co. v. Benchmark Mech. Sys., 475 Mass. 150	366+32	"Implied subrogation" is an equitable adjustment of rights that operates when a creditor is entitled to recover from two sources, one of which bears a primary legal responsibility; if the secondary source, the subrogee, pays the obligation, it succeeds to the rights of the party it has paid, the subrogor, against the third, primarily responsible party.	What is an implied subrogation?	Subrogation - Memo 88 - MS C.docx	ROSS-003316155-ROSS-003316156
Chimarios v. Duhl, 152 A.D.2d 508	401+4	Generally, venue of transitory action lies in county where cause of action arose; rule, however, is not inflexible and may be outweighed by other considerations that favor different venue for matter to be tried.	Is the general rule that the venue of a transitory action lies in the county where the cause of action arose?	Venue - Memo 63 - RK.docx	ROSS-003313048-ROSS-003313049
N. Utilities Div. of K N Energy v. Town of Evansville, 822 P.2d 829	366+1	Since causes of action for damage or injury to persons and property survive and are assignable, they can be subject of claim for conventional subrogation. W.S.1977, S 1-4-101.	Is assignment of a cause of action for damage or personal injury subject of a subrogation claim?	Subrogation - Memo 91 - VP C.docx	LEGALEASE-00010329-LEGALEASE-00010330
Horne v. U.S. Dep't of Agric., 750 F.3d 1128	148+2.2	In general, the imposition and collection of penalties and fines does not run afoul of the Takings Clause. U.S.C.A. Const.Amend. 5.	Does the imposition and collection of penalties and fines run afoul of the taking clause?	003101.docx	LEGALEASE-00120689-LEGALEASE-00120690
Lucas v. S.C. Coastal Council, 505 U.S. 1003	148+2.10(3)	South Carolina Supreme Court erred in applying rule that harmful or noxious uses of property may be proscribed by government regulation without requirement of compensation to decide case in which property owner alleged that all economically viable use of his property was precluded by South Carolina Beachfront Management Act, which barred him from erecting any permanent habitable structures on his land; in order to avoid paying compensation, state had to identify background principles of nuisance and property law that prohibited use as landowner presently intended in circumstances in which property was presently found. U.S.C.A. Const.Amend. 5.	Does the Takings Clause require compensation when regulations prevent an owner from putting land to use?	Eminent Domain - Memo 141 - RK.docx	ROSS-003284889-ROSS-003284891
McBeth v. Himes, 598 F.3d 708	92+3865	If one voluntarily relinquishes some property or liberty interest, then she cannot have a claim for a due process violation because no state official deprived her of the interest. U.S.C.A. Const.Amend. 14.	When a person voluntarily surrenders property can it amount to a deprivation of a constitutionally-protected interest?	003145.docx	LEGALEASE-00120811-LEGALEASE-00120812
Isom v. State, 651 N.E.2d 1151	110+1437	Although jury instruction erroneously suggested that sudden heat was element of voluntary manslaughter, it was not such as to mislead jury and constitute fundamental error, as required for post-conviction relief from convictions for murder and conspiracy to commit murder, where instruction, read in its totality, clearly explained that sudden heat was mitigator for reducing what would otherwise be murder to voluntary manslaughter; jury was expressly instructed that sudden heat acted as mitigator, and state's and defense counsel's closing arguments reminded jury that it was mitigating factor. West's A.I.C. 35-42-1-3(b).	Is the existence of sudden heat of passion an element of voluntary manslaughter?	003153.docx	LEGALEASE-00120747-LEGALEASE-00120748

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Isom v. State, 651 N.E.2d 1151	110+1437	Although jury instruction erroneously suggested that sudden heat was element of voluntary manslaughter, it was not such as to mislead jury and constitute fundamental error, as required for post-conviction relief from convictions for murder and conspiracy to commit murder, where instruction, read in its totality, clearly explained that sudden heat was mitigator for reducing what would otherwise be murder to voluntary manslaughter; jury was expressly instructed that sudden heat acted as mitigator, and state's and defense counsel's closing arguments reminded jury that it was mitigating factor. West's A.I.C. 35-42-1-3(b).	Is sudden heat considered as a mitigating factor in a prosecution for murder?	003157.docx	LEGALEASE-00120753- LEGALEASE-00120754
Sanders v. Robinson, 864 F.2d 630	209+131	Tribal court had jurisdiction over non-Indian husband as defendant in divorce and custody proceeding involving couple and their children, all of whom resided on reservation during marriage. 28 U.S.C.A. S 1331.	Does tribal court possess jurisdiction in divorce or dissolution of marriage cases involving non-Indians?	Indians - Memo 49 - BP.docx	LEGALEASE-00010445- LEGALEASE-00010446
Engrassia v. DiLullo, 121 Misc. 2d 667	249+39	A malicious prosecution action is not available in circumstances where no actual interference with person or property is shown.	Is a malicious prosecution action possible when there is no actual interference with person or property?	05063.docx	LEGALEASE-00083718- LEGALEASE-00083719
Dial v. Martin, 37 S.W.2d 166	289+853	It is right and duty of surviving members of partnership, dissolved by one partner's death, to wind up firm's business.	Does a surviving partner have the duty to wind up the firms business?	003416.docx	LEGALEASE-00120857- LEGALEASE-00120858
Ethington v. Wright, 66 Ariz. 382	317A+181	The corporation commission has full and exclusive power in the matter of prescribing classifications, rates, and charges of public service corporations, and in making rules, regulations, and orders, concerning such classifications, rates, and charges by which public service corporations are to be governed, and the commission's exclusive field may not be invaded by the courts, the Legislature, or the executive. A.R.S.Const. art. 15, S 14.	Does the Corporation Commission have the right to prescribe just and reasonable rates to be made by the public service corporation within the State?	003503.docx	LEGALEASE-00120710- LEGALEASE-00120712
Sanders v. Robinson, 864 F.2d 630	209+131	Tribal court had jurisdiction over non-Indian husband as defendant in divorce and custody proceeding involving couple and their children, all of whom resided on reservation during marriage. 28 U.S.C.A. S 1331.	Does tribal court possess jurisdiction in divorce or dissolution of marriage cases involving non-Indians?	003236.docx	LEGALEASE-00120749- LEGALEASE-00120750
Richland Cty. v. Carolina Chloride, 382 S.C. 634	148+266	In essence, "inverse condemnation" is a governmental taking absent an eminent domain proceeding. U.S.C.A. Const.Amend. 5.	Is inverse condemnation a governmental taking absent an eminent domain proceeding?	017376.docx	LEGALEASE-00120953- LEGALEASE-00120954
Yellow Cab Co. of Providence v. Ferri, 108 R.I. 80	48A+84	Where application for certificate to operate taxicab was filed prior to the effective date of statute permitting appeals from orders of Division of Public Utilities to be taken to the Supreme Court and abolishing public utility hearing board, Superior Court rather than Supreme Court was proper forum for judicial review of order granting the application even though the order had been entered after the effective date of the statute. Gen.Laws 1956, SS 39-1-3, 39-5-1, 39-5-9, 39-1-12, 42-35-15.	Is judicial review of an adverse decision by the Public Utility Hearing Board available to a person under s 42-35-15 of the Administrative Procedures Act?	042573.docx	LEGALEASE-00120959- LEGALEASE-00120960
Wisconsin Power & Light Co. v. Pub. Serv. Comm'n, 181 Wis. 2d 385	317A+102	Predominant purpose underlying Public Utilities Law is protection of consuming public rather than competing utilities. W.S.A. 196.01 et seq.	Is the predominant purpose of the Public Utilities Law the protection of consuming public?	Public Utilities - Memo 77 - AM.docx	ROSS-003298771-ROSS- 003298772

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Reagan v. Baird, 140 Ill. App. 3d 58	302+8(4)	Recitation of "other valuable consideration" in deed attached as exhibit was mere conclusion, that could be disregarded in determining whether complaint to set aside alleged fraudulent conveyance stated cause of action.	Is the recitation of other valuable consideration a mere conclusion?	022910.docx	LEGALEASE-00120979-LEGALEASE-00120980
City of San Antonio v. TPLP Office Park Properties, 218 S.W.3d 60	148+106	If access to a landowner's property is materially and substantially impaired by the city, the landowner is entitled to compensation; however, diminished access is not compensable if suitable access remains.	Is diminished access compensable if suitable access remains under the takings law?	Eminent Domain - Memo 171 - GP.docx	ROSS-003288111-ROSS-003288112
Weaver v. Palmer Bros. Co., 270 U.S. 402	92+4267	Act prohibiting use of shoddy in manufacture of comfortables held violative of due process clause. Act Pa. June 14, 1923, SS 1, 2, P.L. 802, 35 P.S. S 961 et seq.; U.S.C.A.Const. Amend. 14.	Whether the absolute prohibition of the use of shoddy in the manufacture of comfortables violates the due process clause?	Inspection - Memo 25 - SH.docx	ROSS-003285465-ROSS-003285466
In re Morgan, 291 B.R. 795	366+1	Under Tennessee law, legal or equitable subrogation is founded on principles of justice and equity, and its operation is governed by principles of equity.	Is equitable subrogation founded on principles of justice and equity and its operation is governed by principles of equity?	Subrogation - Memo # 431 - C - SA.docx	ROSS-003283824-ROSS-003283825
Ripley v. Piehl, 700 N.W.2d 540	366+1	The equity of the party seeking subrogation must be clear and substantial, and superior to that of other claimants.	"Should the equity of the party seeking subrogation be clear and substantial, and superior to that of other claimants?"	Subrogation - Memo # 432 - C - SU.docx	LEGALEASE-00011166-LEGALEASE-00011168
Am. States Ins. Co. v. Allstate Ins. Co., 94 Conn. App. 79	366+1	Subrogation is a highly favored doctrine which courts should be inclined to extend, rather than restrict.	"Is subrogation a highly favored doctrine which courts should be inclined to extend, rather than restrict?"	043750.docx	LEGALEASE-00121537-LEGALEASE-00121538
Blankenship v. Estate of Bain, 5 S.W.3d 647	366+1	A right of subrogation may arise by contract (conventional subrogation), by application of equitable principles of law (legal subrogation), or by application of a statute (statutory subrogation).	Do subrogation rights arise by statute?	Subrogation - Memo # 497 - C - NO.docx	ROSS-003313271-ROSS-003313272
Dattel Family Ltd. P'ship v. Wintz, 250 S.W.3d 883	366+1	Subrogation is not appropriate in every circumstance; as an equitable doctrine, it is applied only if its application achieves equity under the facts and circumstances of the case at hand.	Is subrogation appropriate in every circumstance?	043930.docx	LEGALEASE-00121224-LEGALEASE-00121225
Wasko v. Manella, 269 Conn. 527	366+1	In a subrogation case, the determination of what equity requires is a matter for the discretion of the trial court.	Is the determination of what equity requires a matter for the discretion of the trial court in a Subrogation case?	Subrogation - Memo # 638 - C - SA.docx	ROSS-003287553-ROSS-003287554
Pennsylvania Nat. Mut. Cas. Ins. Co. v. City of Pine Bluff, 354 F.3d 945	366+7(1)	"Equitable subrogation" is one of a surety's principal mechanisms for reducing loss; arising by operation of law, the doctrine permits the surety to acquire and assert the rights of those parties whom the surety pays.	Is equitable subrogation one of a surety's principal mechanisms for reducing loss?	044007.docx	LEGALEASE-00121394-LEGALEASE-00121396
In re Monaco, 514 B.R. 477	366+1	Under Texas law, the general purpose of equitable subrogation is to prevent unjust enrichment of the debtor that owed the debt being paid.	Does equitable subrogation prevent the unjust enrichment of the debtor?	044160.docx	LEGALEASE-00121564-LEGALEASE-00121565
Fidlar Techs. v. LPS Real Estate Data Sols., 82 F. Supp. 3d 844	386+6	Under Illinois law, tort of trespass to chattels requires that the trespass involve an act of direct physical interference.	Does the tort of trespass to chattels require that the trespass involve an act of direct physical interference?	047146.docx	LEGALEASE-00121284-LEGALEASE-00121285
QVC v. Resultly, 159 F. Supp. 3d 576	386+6	Under Pennsylvania law, a trespass to a chattel may be committed by intentionally: (1) dispossessing another of the chattel, or (2) using or intermeddling with a chattel in the possession of another. Restatement (Second) of Torts S 217.	How can a trespass to chattel be committed?	047152.docx	LEGALEASE-00121358-LEGALEASE-00121359

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Anderson v. Waffle House, 920 F. Supp. 2d 685	25T+143	In determining motion to compel arbitration, court first inquires whether parties agreed to arbitrate dispute at issue; this inquiry consists of two subsidiary questions, whether there is a valid agreement to arbitrate between the parties and whether dispute in question falls within scope of that arbitration agreement. 9 U.S.C.A. S 4.	How do courts reconcile doubts regarding the scope of arbitrable issues?	007051.docx	LEGALEASE-00122393-LEGALEASE-00122395
Arakawa v. Japan Network Grp., 56 F. Supp. 2d 349	78+1502	Possibility that employee might be required to pay one half of any expenses incurred in arbitration, including arbitrator's compensation, pursuant to arbitration agreement with employer did not constitute barrier to vindication of employee's statutory rights under Title VII and, thus, did not render agreement unenforceable; prior to submitting to arbitration, there was no indication how large arbitration fees would be or whether employee would actually be required to pay any portion of those fees. Civil Rights Act of 1964, S 701 et seq., 42 U.S.C.A. S 2000e et seq.	Is an agreement to arbitrate Title VII claims that calls for a plaintiff to pay fees unenforceable?	007099.docx	LEGALEASE-00122444-LEGALEASE-00122445
Hubicki v. Festina, 156 S.W.3d 897	30+3158	The face of the record, for purposes of restricted appeal review for error on face of record, consists of all the papers on file in the appeal, including the reporter's record. Rules App.Proc., Rules 26.1(c), 30.	What consists in the face of the record for the purpose of a restricted appeal?	Appeal And Error - Memo 22 - BP.docx	ROSS-003283989-ROSS-003283990
Strickland v. Dep't of Agric. & Consumer Servs., 922 So. 2d 1022	268+628	To prevent the spreading of fire, property may be destroyed without compensation to the owner.	"In order to prevent spreading of fire, can a private property be destroyed without compensating the owner?"	017419.docx	LEGALEASE-00121862-LEGALEASE-00121864
Elias v. Rolling Stone LLC, 192 F. Supp. 3d 383	237+6(1)	When the defendant's statements, read in context, are readily understood as conjecture, hypothesis, or speculation, this signals the reader that what is said is opinion, and not fact, and thus not actionable as defamation under New York law.	How are statements identified as opinions and not facts?	021053.docx	LEGALEASE-00122303-LEGALEASE-00122304
Charles v. Eshleman, 5 Colo. 107	260+97	The reason for the distinction between the ordinary commercial partnership and a mining partnership, and for limiting the powers of the members of the latter class, is that the mining partnership is not founded on the delectus personae, whereas the other class is.	Is a mining partnership founded on the delectus personae?	021839.docx	LEGALEASE-00122500-LEGALEASE-00122501
ADP Marshall v. Brown Univ., 784 A.2d 309	307A+3	A trial justice's decision regarding a motion in limine may be preliminary or absolute in nature.	Is a decision regarding a motion in limine preliminary or absolute in nature?	Pretrial Procedure - Memo # 108 - C - SPB.docx	ROSS-003288213-ROSS-003288214
Perry v. Gulf Stream Coach, 871 N.E.2d 1038	307A+3	Ordinarily the denial of a motion in limine can occasion no error; the objectionable occurrence is the improper admission of items in evidence.	Can the denial of a motion in limine occasion no error?	Pretrial Procedure - Memo # 168 - C - CRB.docx	ROSS-003297231-ROSS-003297232
Sher v. Deane H. Tank, 269 Ill. App. 3d 312	30+3209	Reviewing court will not reverse trial court's order allowing or excluding evidence in limine absent clear showing of abuse of that discretion.	Is it within the discretion of the trial judge to grant or deny a motion in limine?	028110.docx	LEGALEASE-00122113-LEGALEASE-00122114
Walnut Creek Nursery v. Banske, 26 N.E.3d 648	30+242(4)	Absent either a ruling admitting evidence accompanied by a timely objection or a ruling excluding evidence accompanied by a proper offer of proof, there is no basis for a claim of error.	Does a trial court's ruling on a motion in limine determine the ultimate admissibility of the evidence?	Pretrial Procedure - Memo # 267 - C - MLS.docx	ROSS-003289024-ROSS-003289025

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Poff v. Elkins, 2014 Ark. App. 663	307A+3	A trial court's ruling on a motion in limine is not a final ruling on the admissibility of the evidence in question, but only interlocutory, tentative, or preliminary in nature.	"Is the denial of a motion to exclude evidence in all circumstances a binding declaration that all such evidence is admissible, immune from further review during trial?"	041253.docx	LEGALEASE-00122345- LEGALEASE-00122346
Wilkins v. Leeds, 216 Ind. 508	317A+102	The legislature intended by act changing definition of term "public utility" so as to exclude municipally-owned plants, to take municipally-owned plants out of general public utilities statute. Acts 1913, c. 76, S 1, as amended by Acts 1933, c. 190 (Burns' Ann.St. S 54-201 et seq.).	Are municipally owned utilities removed from the public utilities definition or statute?	042193.docx	LEGALEASE-00121938- LEGALEASE-00121939
Chenoweth v. Maloy, 143 Md. 622	70+12(4)	Under Acts 1910, c. 180, creating the Public Service Commission and providing for regulation of public service corporations, the Commission may grant the United Railways Company, of Baltimore, the right to collect a greater passenger fare than that prescribed by Acts 1900, c. 313, now Revised Charter of Baltimore City 1915, S 796, Code Pub.Loc.Laws, art. 4, S 768, in view of SS 311/212 and 55, repealing inconsistent acts or parts thereof.	Did the Public Service Commission repeal all acts that prescribed or limited the price of a product furnished by any corporation applicable to the new system of regulations?	042216.docx	LEGALEASE-00122523- LEGALEASE-00122525
Seal v. Andrews, 214 Miss. 215	48A+78	Evidence justified finding that operations of motor carrier in operating buses between city of Magnolia and city of McComb, and in operating buses to and in town of Summit, came within exception of Motor Carrier Regulatory Act providing that term "motor carrier" as defined in act shall not include motor vehicles engaged in transportation of persons within zone adjacent to and commercially part of municipality, or municipalities, but not exceeding five miles from corporate limit, so that such operators were not required to obtain certificate of public convenience and necessity to carry on such operations. Code 1942, SS 7632 et seq., 7635; Interstate Commerce Act, S 201 et seq., 49 U.S.C.A. S 301 et seq.	"Should the acts of the Public Service Commission conform as nearly as practicable to the rules, regulations, requirements, etc., of the Interstate Commerce Commission?"	Public Utilities - 317A - 102 - Memo 97 - AM - 10.17.2017.docx	ROSS-003283693-ROSS-003283694
Am. Fid. Fire Ins. Co. v. United States, 385 F. Supp. 1075	366+7(1)	A surety, upon satisfying debts of principal, is subrogated only to such rights as creditors had against the principal. West's Ann.Cal.Civ.Code, S 2848.	"Is a surety, upon satisfying debts of principal, subrogated only to such rights as creditors had against the principal?"	Subrogation - Memo # 901 - C - VA.docx	ROSS-003324902-ROSS-003324903
Serna v. Arde Apparel, 657 So. 2d 966	13+61	Legal rights accrue and are fixed not when action is brought to enforce them, but rather when last element necessary to constitute cause of action occurs.	When do legal rights accrue?	Action - Memo # 149 - C - CS.docx	ROSS-003284252-ROSS-003284253
State v. Phillips, 130 So. 3d 416	13+61	For cause of action to accrue, one party must have breached duty to other, and other must have been injured.	"Will cause of action accrue when one party has breached a duty to another, and the other is injured?"	Action - Memo # 177 - C - CS.docx	ROSS-003295037-ROSS-003295038
Adams v. Mills, 286 U.S. 397	70+200	In contemplation of law, claim for damages for overcharge by carriers arose at time extra charge was paid. Interstate Commerce Act S 8, 49 U.S.C.A. S 8.	Does claim for damages for overcharge by carriers arise at time extra charge was paid?	Action - Memo # 182 - C - CS.docx	ROSS-003284677-ROSS-003284678
Sec. Bank & Tr. Co. v. Larkin, Hoffman, Daly & Lindgren, Ltd., 897 N.W.2d 821	13+61	A cause of action "accrues" when all of the elements of the action have occurred, such that the cause of action could be brought and would survive a motion to dismiss for failure to state a claim.	When does a cause of action accrue?	005968.docx	LEGALEASE-00123317- LEGALEASE-00123318

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Chandler v. Multidata Sys. Int'l Corp., 163 S.W.3d 537	106+40.4	Negligence and wrongful death action that patients and survivors of patients who received radiation treatment in Panama brought against manufacturers of computer-operated treatment planning system and radiation therapy unit arose in Panama, for purposes of determining whether under doctrine of forum non conveniens trying case in Missouri would be substantially more inconvenient than trying the case in Panama; a cause of action accrued when and originated where damages were sustained and capable of ascertainment, and injuries to patients and survivors of patients were sustained in Panama.	Does a cause of action accrue when and originates where damages are sustained and capable of ascertainment?	Action- Memo # 79 - C - LK.docx	ROSS-003325134-ROSS-003325135
Renfroe v. Eli Lilly & Co., 686 F.2d 642	241+2(1)	According to Missouri law, cause of action does not accrue until plaintiff has sustained at least some damage capable of ascertainment, and the same rule applies to issue of where the cause of action originates for purposes of application of borrowing statute. V.A.M.S. SS 516.100, 516.190.	Does a cause of action accrue when damages are sustained and capable of ascertainment?	006500.docx	LEGALEASE-00123560-LEGALEASE-00123561
Guyden v. Aetna, 544 F.3d 376	25T+124	Former employee's claim that she was terminated as director of internal audit in retaliation for her attempt to bring attention to employer's accounting irregularities, in violation of Sarbanes-Oxley Act (SOX) whistleblower protection provision, lacked inherent conflict between SOX's underlying purposes and arbitration, pursuant to employee's agreement to arbitrate employment-related disputes, as would have rendered employee's SOX claim nonarbitrable, since employee sought compensation not only for her own injuries but also to bring auditing issues to attention of board of directors, shareholders, and investing public, and SOX's primary purpose was to provide private remedy for aggrieved employee, not to publicize alleged corporate misconduct. 9 U.S.C.A. S 2; 18 U.S.C.A. S 1514A.	Are claims brought under the Sarbanes-Oxley Act (SOX) whistleblower protection provision arbitrable?	007138.docx	LEGALEASE-00123923-LEGALEASE-00123924
Osman v. Osman, 285 Va. 384	203+530	Murder is the unlawful killing of another with malice, which, in a legal sense, means any wrongful act done willfully or purposely.	Does malice mean any wrongful act done willfully or purposely in the context of murder?	019348.docx	LEGALEASE-00123565-LEGALEASE-00123566
Snider v. Seung Lee, 584 F.3d 193	221+396	Criminal prosecution by a foreign government is not subject to guarantees under the United States Constitution.	Is criminal prosecution by a foreign government subject to guarantees under the United States Constitution?	019747.docx	LEGALEASE-00123449-LEGALEASE-00123450
McCook Metals L.L.C. v. Alcoa Inc., 192 F.R.D. 242	221+351	If an attorney-client privilege exists in a foreign country with respect to communications pertaining to patent, then comity requires United States court to apply that country's laws to documents for which privilege is asserted.	Does comity require the application of the attorney client privilege with respect to documents for which the attorney client privilege exists in a foreign country?	019818.docx	LEGALEASE-00124161-LEGALEASE-00124162
Lizarbe v. Rondon, 642 F. Supp. 2d 473	221+351	Actions of military officers are not ipso facto acts of state, within meaning of the act of state doctrine.	"Are actions of military officers ipso facto acts of state, within meaning of the act of state doctrine?"	019918.docx	LEGALEASE-00123545-LEGALEASE-00123546
Doe v. Qi, 349 F. Supp. 2d 1258	221+387	Normally, the burden of proving acts of state rests on the party asserting the applicability of the doctrine; however, where there is a potential for embarrassing the Executive Branch, the act of state doctrine may be raised sua sponte.	Does the party asserting the act of state doctrine have the burden to prove that the act in question was an act of state?	020001.docx	LEGALEASE-00123273-LEGALEASE-00123274

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Kiobel v. Royal Dutch Petroleum Co., 621 F.3d 111	221+104	To attain the status of a rule of customary international law, a norm must be specific, universal, and obligatory. Rest. 3rd, Restatement of the Foreign Relations Law of the United States S 102(2).	"Should a ""norm of international law"" be specific, universal, and obligatory?"	International Law - Memo # 272 - C - TJ.docx	ROSS-003311110-ROSS-003311111
In re Simon, 153 F.3d 991	221+162	Comity is limited to cases in which there is, in fact, a true conflict between domestic and foreign law.	Is comity limited to cases in which there is a true conflict between domestic and foreign law?	020251.docx	LEGALEASE-00124079-LEGALEASE-00124080
Cardenas v. Solis, 570 So. 2d 996	228+830.1	Generally, only final judgment of courts of foreign country are subject to recognition and enforcement in United States, provided certain jurisdictional due process standards are observed by the foreign court; nonfinal or interlocutory orders of foreign courts, however, are generally not entitled to such recognition or enforcement. U.S.C.A. Const.Amends. 5, 14.	"Does a generally recognized rule of international comity state that an American court will only recognize a final and valid judgement however, modifiable foreign orders can be granted extraterritorial effect even though they might not be final for purposes of res judicata?"	020307.docx	LEGALEASE-00123609-LEGALEASE-00123610
United States v. Rasheed, 802 F. Supp. 312	221+397	Fourth Amendment does not apply to search of nonresident aliens on ship in international waters. U.S.C.A. Const.Amend. 4.	Does the Fourth Amendment apply to a search of nonresident aliens on ship in international waters?	International Law - Memo # 817 - C - ANC.docx	ROSS-003288835-ROSS-003288836
Nat'l Coal. Gov't of Union of Burma v. Unocal, 176 F.R.D. 329	221+515	Party asserting applicability of act of state doctrine bears burden of proof; at minimum, this burden requires that party offer some evidence that government acted in its sovereign capacity and some indication of depth and nature of government's interest.	Who bears the burden of proof when an assertion that the act of state doctrine is applicable is made?	International Law - Memo 320 - RK.docx	ROSS-003298209-ROSS-003298210
In re Utnehrmer, 499 B.R. 705	289+426(1)	Under California law, the presence of profit-sharing does not support a presumption of the existence of the partnership unless there was also an actual sharing of the profits. West's Ann.Cal.Corp.Code S 16202.	Is a mere presence of profit sharing agreement sufficient to support a presumption of the existence of the partnership?	021877.docx	LEGALEASE-00122631-LEGALEASE-00122632
Shockey v. Pelfrey, 314 Ky. 441	302+310	An exhibit forms a part of a pleading and may aid and cure an allegation which is vaguely, indefinitely and defectively stated, but exhibit cannot supply an averment which has been wholly omitted. Civ.Code Prac. S 120.	Can an exhibit cure or aid a defective allegation?	022955.docx	LEGALEASE-00123498-LEGALEASE-00123500
San Francisco v. Wendy's Int'l, 221 W. Va. 734	157+546	Although in limine hearings are generally recommended prior to Daubert determinations, they are not required; the only legal requirement is that the parties have an adequate opportunity to be heard before the district court makes its decision.	Are in limine hearings generally recommended prior to Daubert determinations and are they preliminary determinations?	024147.docx	LEGALEASE-00122570-LEGALEASE-00122571
Choate v. Natvig, 952 S.W.2d 730	307A+3	Granting motion in limine does not automatically result in permanent exclusion of disputed evidence.	Does granting motion in limine automatically result in permanent exclusion of disputed evidence?	Pretrial Procedure - Memo # 325 - C - ANC.docx	ROSS-003297274-ROSS-003297275
Headley v. Williams, 162 N.C. App. 300	307A+3	A trial court's ruling on a motion in limine is not final, but rather interlocutory and subject to modification.	Is the court's ruling on a motion in limine interlocutory and subject to change during the course of the trial?	032837.docx	LEGALEASE-00123081-LEGALEASE-00123082
Sw. Country Enterprises v. Lucky Lady Oil Co., 991 S.W.2d 490	307A+3	Ruling granting a motion in limine is not a ruling on the admissibility of evidence and does not preserve error in exclusion of evidence; motion in limine simply prohibits references to specific issues without first obtaining a ruling on the admissibility of those issues outside the presence of the jury.	"Is a ruling granting a motion in limine, a ruling on the admissibility of evidence and does not preserve error in exclusion of evidence?"	044225.docx	LEGALEASE-00122954-LEGALEASE-00122955
Pramer S.C.A. v. Abaplus Int'l Corp., 76 A.D.3d 89	13+5	Private right of action is not implied under the commercial bribery provisions of the Penal Law.	Is a private right of action implied under the commercial bribery provisions of a penal law/statute?	011102.docx	LEGALEASE-00124226-LEGALEASE-00124227

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Altizer v. Town of Cedar Bluff, Va., 104 F. Supp. 3d 760	148+114.1	To assert a Fifth Amendment takings claim, the plaintiff must establish a deprivation of a cognizable property interest; the length of deprivation may vary, because temporary takings are as protected by the Constitution as are permanent ones. U.S.C.A. Const.Amend. 5.	Are temporary takings protected by the Constitution as are permanent ones?	Eminent Domain - Memo 243 - GP.docx	ROSS-003297739-ROSS-003297740
Doe v. Qi, 349 F. Supp. 2d 1258	221+342	The more intrusive the remedy upon the sovereignty of the foreign state, the more the concerns of the act of state doctrine are implicated.	Are the concerns of the act of state doctrine implicated when remedies are intrusive?	International Law - Memo # 305 - C - ES.docx	ROSS-003310821-ROSS-003310822
In re Doe, 860 F.2d 40	221+151	Head-of-state immunity is a personal right which derives from and remains an attribute of state sovereignty, and because it is the state that gives power to lead and ensuing trappings of power, including immunity, state may therefore take back that which it bestowed upon its erstwhile leaders.	Is head-of-state immunity a personal right which derives from and remains an attribute of state sovereignty?	International Law - Memo # 826 - C - ANC.docx	ROSS-003284114-ROSS-003284115
Agudas Chasidei Chabad of U.S. v. Russian Fed'n, 528 F.3d 934	221+387	Under the act of state doctrine, the burden of proving an act of state rests on the party asserting the defense.	"Under the act of state doctrine, does the burden of proving an act of state rest on the party asserting the defense?"	020882.docx	LEGALEASE-00124739-LEGALEASE-00124740
United States v. Noriega, 746 F. Supp. 1506	221+151	In order to be entitled to head of state immunity, government official must be recognized as head of state.	In order to be entitled to head of state immunity; must a government official be recognized as head of state?	International Law- Memo # 769 - C - SU.docx	ROSS-003315485-ROSS-003315486
Catalanello v. Kramer, 18 F. Supp. 3d 504	237+6(1)	Under New Jersey law, in determining whether a statement is an actionable statement of fact or a nonactionable opinion, courts consider, inter alia, the statement's verifiability, since a factual statement can be proved or disproved objectively while an opinion statement generally cannot; only if the statement suggested specific factual assertions that could be proven true or false could the statement qualify as actionable defamation.	Can false factual assertion constitute actionable defamation?	021042.docx	LEGALEASE-00125160-LEGALEASE-00125161
Boling v. Clinton Cotton Mills, 163 S.C. 13	237+6(2)	Oral imputations of falsehood are not actionable per se, unless they charge crime or affect one in his business or profession.	"In the context of libel and slander, are oral imputations of falsehood actionable per se?"	Libel and Slander - Memo 201 - BP.docx	ROSS-003281924-ROSS-003281925
Smith v. Polsky, 796 S.E.2d 354	307A+3	Trial court's ruling on a motion in limine is not a final ruling on the admissibility of the evidence in question, but only interlocutory or preliminary in nature; therefore, trial court's ruling on a motion in limine is subject to modification during the course of the trial.	Is trial court's ruling on a motion in limine preliminary in nature?	024307.docx	LEGALEASE-00124950-LEGALEASE-00124951

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Groves v. Ihsanullah, 2016-Ohio-7703	307A+3	Counsel for deceased patient's mother did not, by inquiring on cross-examination of defense expert witness as to whether witness assumed patient had history of drug seeking, violate motions in limine limiting witness's testimony regarding substance and drug abuse opinions and excluding evidence concerning patient's prior emergency room encounters to request narcotic prescription refills and, thus, mother was prejudiced by trial judge's sanctioning of counsel through issuance of curative jury instruction, entitling mother to new trial in wrongful death and medical malpractice action against hospital and emergency care provider premised on patient's death due to prescription drug overdose; liminal motions were not final, and trial judge overruled defense objections to questioning. Rules Civ.Proc., Rule 59(A)(1).	"Is a trial court's ruling on a motion in limine not a final ruling on the admissibility of the evidence in question, but only interlocutory or preliminary in nature?"	028229.docx	LEGALEASE-00125002- LEGALEASE-00125003
Gautney v. Rapley, 2 Ark. App. 116	307A+1	No error flowed from acceptance of only one party's pretrial memorandum where it was not shown to be misleading or to have incorrectly cited the law and where nothing contained in such memorandum could have in any way improperly influenced court or prejudiced other parties.	Does an error flow from the acceptance of only one party's pretrial memorandum?	Pretrial Procedure - Memo # 481 - C - LK.docx	ROSS-003324273-ROSS- 003324274
Medix Ambulance Serv. v. Superior Court, 97 Cal. App. 4th 109	307A+1	Parties are entitled to oral argument in critical pretrial matters where there is a real and genuine dispute.	Are parties entitled to oral argument in critical pretrial matters?	032094.docx	LEGALEASE-00124467- LEGALEASE-00124468
Jackson v. Joyner, 309 S.W.3d 910	307A+3	A motion in limine should not be used as a vehicle to preclude a claim or defense or as a substitute for a motion for summary judgment.	Should a motion in limine be used as a vehicle to preclude a claim or defense?	Pretrial Procedure - Memo # 821 - C - KA.docx	ROSS-003285235-ROSS- 003285236
Duran v. Hyundai Motor Am., 271 S.W.3d 178	307A+3	Motions in limine serve fundamentally different purposes than motions for summary judgment; they are not subject to the same procedural safeguards.	Is a motion in limine subject to the same safeguards as a motion for summary judgment?	036803.docx	LEGALEASE-00125495- LEGALEASE-00125496
People v. Williams, 128 Ill. App. 3d 384	110+632(4)	A motion in limine is addressed to the trial court's inherent power to admit or exclude evidence.	What inherent power of the trial court are motions in limine addressed to?	Pretrial Procedure - Memo # 825 - C - KA.docx	ROSS-003297772-ROSS- 003297773
S.C. Dep't of Transp. v. McDonald's Corp., 375 S.C. 90	30+78(1)	Ruling on motion in limine is generally not considered a final order on the admissibility of evidence and, for that reason, is not immediately appealable.	Is a ruling on a motion in limine considered a final order?	Pretrial Procedure - Memo # 835 - C - VA.docx	ROSS-003312755-ROSS- 003312756
Compton v. Ubilluz, 353 Ill. App. 3d 863	307A+3	An unclear order in limine is worse than no order at all; even if the court concludes that the evidence is inadmissible, it has the discretion to deny the motion in limine before trial.	Is an unclear order in limine worse than no order at all?	Pretrial Procedure - Memo # 844 - C - KA.docx	ROSS-003290251-ROSS- 003290252
Hous. Auth. of Macon v. Younis, 279 Ga. App. 599	307A+3	A motion in limine should be granted when there is no circumstance under which the evidence under scrutiny is likely to be admissible at trial.	Should a motion in limine be granted when there is no circumstance under which the evidence under scrutiny is likely to be admissible?	Pretrial Procedure - Memo # 853 - C - TJ.docx	ROSS-003296412-ROSS- 003296413

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Menna v. Jaiman, 80 Conn. App. 131	307A+313	Trial court did not improperly shift burden to motorist to show a lack of prejudice in motion for sanctions due to motorist's failure to disclose expert witnesses, though court allowed motorist to present evidence at oral arguments, given that motorist was only presented with last opportunity to rebut driver's claim of prejudice before court ruled, and court determined that defendant driver would be prejudiced by the motorist's lack of disclosure only after the driver read into the record the standard interrogatories that had been sent to motorist and her answer, which, submitted nearly five years before trial, were the only disclosure of expert information. Practice Book 1998, S 13-4(1)(A).	Does the party who seeks a sanction for the violation of discovery rules bear the burden of showing that it was prejudiced?	041198.docx	LEGALEASE-00125413-LEGALEASE-00125414
Velazquez v. Serrano, 43 So. 3d 82	366+1	Equitable subrogation is not allowed if it works any injustice to the rights of others; a party's entitlement to subrogation therefore depends upon the equities and attending facts of each case.	Is a party's entitlement to subrogation dependent upon the equities of each case?	044329.docx	LEGALEASE-00125065-LEGALEASE-00125066
Smith v. Associated Nat. Gas Co., 7 S.W.3d 530	30+205	A complaint about a trial court's in limine ruling preserves nothing for appellate review.	Does a complaint about a trial court's ruling on a motion in limine preserve the issue for appellate review?	Subrogation - Memo 938 - RK.docx	ROSS-003284090-ROSS-003284092
In re Houston, 409 B.R. 799	366+1	Under South Carolina law, doctrine of equitable subrogation is to be applied according to dictates of equity and good conscience, in light of actions and relationship of parties.	Is the doctrine of equitable subrogation founded upon any principles?	044402.docx	LEGALEASE-00125103-LEGALEASE-00125104
In re Lapeer Cty. Clerk, 242 Mich. App. 497	79+1	County clerk is an independently elected county official whose duties are prescribed by State Constitution, statutes, and court rules. M.C.L.A. Const. Art. 6, S 14; M.C.L.A. SS 600.571, 600.1007; MCR 8.105, 8.119.	Who is a county clerk?	013405.docx	LEGALEASE-00125729-LEGALEASE-00125730
Com., Dep't of Health v. Hanes, 78 A.3d 676	79+1	Clerk of Orphans' Court and Register of Wills was not a judicial officer, and therefore mandamus petition addressing clerk's issuance of marriage licenses was not one directed to a court, as could render petition subject to jurisdiction of Supreme Court; clerk's position was defined by statute as part of "system and related personnel," which expressly excluded judicial officers. 42 Pa.C.S.A. SS 102, 721(2).	Is a Clerk of the Orphans' Court a judicial officer?	013442.docx	LEGALEASE-00125626-LEGALEASE-00125627
State v. Bennett, 307 Conn. 758	203+527	To act intentionally, as required to support murder conviction, the defendant must have had the conscious objective to cause the death of the victim.	Does the defendant have conscious objective to cause the death of the victim to consider his act was intentional?	Homicide - Memo 155 - VG.docx	ROSS-003300049-ROSS-003300050
Gerber v. Sharp, 72 Ind. 553	366+7(1)	A. was surety for B. on a note to C. for part of the purchase money of real estate. B. at the same time made a note for the residue and a mortgage on the real estate to C. to secure the payment of both notes. Afterwards, the first note being due, C. recovered judgment thereon against B. as principal and A. as surety, and, as B. was then insolvent, A. paid the judgment in full, and then brought suit to foreclose the mortgage for the amount paid. Held, that the suit could be maintained, and that A. was entitled to be subrogated to all C.'s rights in the mortgage.	Is the rule that a surety who has paid the debt of a principal is entitled to be substituted in place of creditor as to all securities held by him for payment of debt applies whether security is real or personal property?	044062.docx	LEGALEASE-00125658-LEGALEASE-00125659
Adaman Mut. Water Co. v. United States, 278 F.2d 842	148+85	A restrictive covenant imposing a duty which runs with the land taken constitutes a compensable interest. U.S.C.A.Const. Amend. 5.	Does a restrictive covenant constitute a compensable interest in land?	Eminent Domain - Memo 257 - GP.docx	ROSS-003300175-ROSS-003300176

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Wright v. United States, 963 F. Supp. 7	386+6	To prevail on trespass claim under District of Columbia law,, plaintiffs must prove that trespass to realty occurred, and that such action was tortious or unauthorized.	What must a plaintiff prove in order to prevail on a trespass claim?	Trespass - Memo 189 - RK.docx	ROSS-003326891
Youngbey v. D.C., 766 F. Supp. 2d 197	386+10	To prove trespass claim in District of Columbia, plaintiff must prove (1) that trespass to realty occurred, and (2) that such action was tortious or unauthorized.	What must a plaintiff prove in order to prevail on a trespass claim?	047237.docx	LEGALEASE-00125834-LEGALEASE-00125835
United States v. CPC Int'l Inc., 875 F. Supp. 264	13+61	Right to bring action arises when acts or omissions constituting cause of action occur.	Does the right to bring action arise when acts or omissions constituting cause of action occur?	005331.docx	LEGALEASE-00126074-LEGALEASE-00126075
Duryee v. Turner, 20 Mo. App. 34	13+61	In the absence of any agreement between the landlord and tenant as to when the rent for a farm is to be paid, it is payable at the end of the year, and an action to recover it cannot be maintained before that time.	"If an agreement between the landlord and tenant as to when the rent is to be paid is absent, is it payable at the end of the year?"	Action - Memo # 131 - C - SB.docx	ROSS-003312630-ROSS-003312631
Volk v. United States, 111 Fed. Cl. 313	34+2	By their nature, military procedures limit the military's discretion because the military is bound to follow its own procedural regulations if it chooses to implement some.	Is the military bound to follow its own procedural regulations once it chooses to implement some?	008807.docx	LEGALEASE-00126290-LEGALEASE-00126291
Cott Index Co. v. Jagneaux, 685 So. 2d 656	79+1	Office of clerk of parish court has no legal status and is simply functional organization by and through which clerk of court carries out his/her official duties; it is clerk, as office holder, who enters into contracts and who is party to litigation. LSA-Const. Art. 5, S 28.	Does the office of the clerk of court have a legal status?	013416.docx	LEGALEASE-00126272-LEGALEASE-00126273
United States v. Rasheed, 802 F. Supp. 312	221+397	Fourth Amendment does not apply to search of nonresident aliens on ship in international waters. U.S.C.A. Const.Amend. 4.	Does the Fourth Amendment apply to a search of nonresident aliens on the ship in international waters?	International Law - Memo # 817 - C - SHS.docx	ROSS-003286609-ROSS-003286610
In re Tamimi, 176 F.3d 274	221+432	Under Foreign Sovereign Immunities Act (FSIA), foreign state is entitled to sovereign immunity unless plaintiff demonstrates that one of the exceptions to sovereign immunity applies, and, if no exception to sovereign immunity is applicable, courts lack both statutory subject-matter jurisdiction and personal jurisdiction. 28 U.S.C.A. SS 1602 et seq., 1604.	Is a foreign state is entitled to sovereign immunity?	International Law - Memo # 833 - C - NS.docx	ROSS-003326576-ROSS-003326577
Spielman v. State, 27 Md. 520	210+1017(1)	A demurrer opens for review all the previous pleadings, and notwithstanding the defectiveness of the pleading demurred to, the court in criminal as well as in civil proceedings, gives judgment against the party who in pleading committed the first error.	Does a demurrer open all pleadings?	023016.docx	LEGALEASE-00126204-LEGALEASE-00126205
Duran v. Hyundai Motor Am., 271 S.W.3d 178	307A+3	Motions in limine serve fundamentally different purposes than motions for summary judgment; they are not subject to the same procedural safeguards.	Is a motion in limine subject to the same safeguards as a motion for partial summary judgment?	Pretrial Procedure - Memo # 881 - C - KA.docx	ROSS-003313596-ROSS-003313597
Dowden v. Cent. Louisiana Elec. Co., 368 So. 2d 465	317A+112	Fact that utility is regulated by state body does not convert utility from private utility company to a public body.	Does the fact that a state body regulates a utility convert it from a private utility to a public body?	042383.docx	LEGALEASE-00126334-LEGALEASE-00126335
Prentzel v. State, Dep't of Pub. Safety, 169 P.3d 573	386+6	Trespass to chattels is a lesser form of conversion; it can be committed when a party intentionally dispossess another of the chattel or intentionally uses or interferes with a chattel in another's possession.	Is trespass to chattels a lesser degree of conversion?	047189.docx	LEGALEASE-00125991-LEGALEASE-00125992

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Prentzel v. State, Dep't of Pub. Safety, 169 P.3d 573	386+6	Trespass to chattels is a lesser form of conversion; it can be committed when a party intentionally dispossess another of the chattel or intentionally uses or interferes with a chattel in another's possession.	Is trespass to chattels a lesser claim than the tort of conversion?	Trespass - Memo 193 - RK.docx	ROSS-003285483-ROSS-003285484
Bergin v. Temple, 111 Mont. 539	13+61	A cause of action can "arise" but once, and when it once accrues it remains in force until it is extinguished or satisfied, or barred by statute.	"Can a cause of action ""arise"" and remain in force until it is extinguished or satisfied?"	Action - Memo # 145 - C - UG.docx	ROSS-003299900-ROSS-003299901
Unexcelled Chem. Corp. v. United States, 345 U.S. 59	13+61	A cause of action is created when there is a breach of duty owed plaintiff, and it is that breach of duty, and not its discovery, that normally is controlling.	Will a cause of action be created when there is a breach of duty owed to the plaintiff?	Action - Memo #265 - C - SKG.docx	ROSS-003300043-ROSS-003300044
State v. Torbert, 200 Ala. 663	79+2	Under Code 1907, S 6698, probate judge of Hale county is clerk of county court of which he is also judge; provision of Acts 1915, p. 865, S 9, subsec. 3, which makes clerk of circuit court ex officio clerk of county court, being limited to counties having more than 26,000 and less than 26,100 inhabitants.	Will the clerks of a circuit court be ex-officio clerks of a county court?	Clerks of Court - Memo 51 - RK.docx	ROSS-003300135-ROSS-003300136
Hous. Auth. of City of Newark v. Ricciardi, 176 N.J. Super. 13	148+63	It is not necessarily any proposed or adopted redevelopment plan for the area but rather the declaration of blight itself which is the act of independent significance engendering a decline in value. N.J.S.A. 20:3-30, 20:3-38, 40:55-21.10.	What is the ordinary and natural consequence of a declaration of blight under the statutes eminent domain?	017627.docx	LEGALEASE-00126607-LEGALEASE-00126608
Sisk v. Abbott Labs., 298 F.R.D. 314	170A+751	The failure to plead an affirmative defense as required by federal rule governing pleading results in the waiver of that defense and its exclusion from the case; such waiver, however, should not be effective unless the failure to plead resulted in unfair surprise or prejudice. Fed.Rules Civ.Proc.Rule 8(c), 28 U.S.C.A.	Does the failure to plead an affirmative defense result in the waiver of that defense?	023062.docx	LEGALEASE-00126720-LEGALEASE-00126721
Borough of Scottdale v. Nat'l Cable Television Corp., 476 Pa. 47	317A+112	The category of business activities affected with public interest which can be subjected to regulation as public utilities is not a closed category.	Is there a closed category of business activities affected with public interest?	Public Utilities - Memo 194 - AM.docx	LEGALEASE-00016630-LEGALEASE-00016631
Stonega Coke & Coal Co. v. Price, 106 F.2d 411	150+423	A decree in equity may speak as of its date and should completely determine the controversy before the court.	Can a decree in equity speak as of its date and should completely determine the controversy before the court?	006246.docx	LEGALEASE-00127168-LEGALEASE-00127169
Circuit City Stores v. Najd, 294 F.3d 1104	25T+134(2)	Generally applicable contract defenses, such as lack of consideration and mutual assent, may invalidate an arbitration agreement. 9 U.S.C.A. S 2.	Can lack of consideration invalidate an arbitration agreement?	Alternative Dispute Resolution - Memo 438 - RK.docx	ROSS-003286420-ROSS-003286421
Coleman v. Nat'l Movie-Dine, 449 F. Supp. 945	25T+134(3)	Claim of fraud in inducement of contract is insufficient to prevent invocation of arbitration provision of contract. 9 U.S.C.A. S 1 et seq.	Can a claim of fraud in the inducement of a contract prevent the invocation of an arbitration provision in the contract?	007233.docx	LEGALEASE-00127227-LEGALEASE-00127228

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Chicago Ry. Equip. Co. v. Merchants' Nat. Bank, 136 U.S. 268	83E+335	An instrument in the usual form of a promissory note, to pay to the order of the payee a certain sum at a certain time, contained the statement that it was one of a series of 25 notes, and should "become due and payable to the holder on the failure of the maker to pay the principal and interest of any one of the notes of said series," and that all of said notes were "given for the purchase price of 250 railway freight cars manufactured by the payee hereof, and sold by said payee to the maker hereof, which cars are numbered from 13,000 to 13,249, inclusive, and marked on the side thereof with the words and letters, "Blue Line, C. & E.I.R.R. Co.'; and it is agreed by the maker hereof that the title to said cars shall remain in the said payee until all the notes of said series, both principal and interest, are fully paid, all of said notes being equally and ratably secured on said cars." Held, that the note was negotiable.	Does failure to pay series of notes affect the negotiability of the instrument?	009043.docx	LEGALEASE-00126946- LEGALEASE-00126947
Thompson v. Thompson, 149 Tex. 632	8.30E+303	Time certificates of deposit payable to owner at a future date constitute "negotiable instruments" and are in effect promissory notes of issuing bank.	Could time deposits be considered as nonnegotiable instruments under US Law?	010988.docx	LEGALEASE-00126962- LEGALEASE-00126963
Raitport v. Provident Nat. Bank, 451 F. Supp. 522	79+72	At common law, court clerks enjoy no immunity with respect to performance of ministerial duties, such as the docketing of papers or the issuance of writs, but, rather, liability attaches only for nonperformance or improper performance of required act.	Is a prothonotary a clerk of court of common pleas?	013450.docx	LEGALEASE-00126902- LEGALEASE-00126903
Fisher v. City of Berkeley, 37 Cal. 3d 644	268+619	The fixing of prices, like other applications of the police power, may reduce the value of the property which is being regulated; but the fact that the value is reduced does not mean that the regulation is invalid. U.S.C.A. Const.Amends. 5, 14.	Is fixing of prices invalid under the eminent domain statutes?	017656.docx	LEGALEASE-00126983- LEGALEASE-00126985
Sparks v. Porter, 270 F.Supp. 953	101+1249	Provision of Florida fictitious name statute to effect that person shall include every individual, whether natural or artificial, firm or group or combinations of individuals or partnerships, whether natural or representative, except corporations, does not exempt corporations from the statute. F.S.A. S 865.09(2).	Can the term person be used to refer to partnerships and other associations?	021944.docx	LEGALEASE-00127261- LEGALEASE-00127262
Corwin v. Shoup, 76 Ill. 246	30+749	A plea of release of errors must state the facts relied upon, and one which merely averred that the errors were released, without stating in what manner or by what act they were released, was insufficient.	Should a plea of release of errors state the facts relied upon?	023068.docx	LEGALEASE-00126894- LEGALEASE-00126895
Hunn v. Dan Wilson Homes, 789 F.3d 573	308+69(8)	Under Texas law, agent has a duty after the termination of the agency not to use or to disclose to third persons principal's trade secrets or other similar confidential matters.	Does the duty of confidentiality stay even after termination of agency?	041770.docx	LEGALEASE-00127112- LEGALEASE-00127113
Auclair v. Vermont Elec. Power Co., 133 Vt. 22	317A+113	Issuance of certificate of public good by Public Service Board is resolution that project for which certificate is granted is in public interest of the state. 30 V.S.A. S 248.	Is the issuance of the certificate of public good a determination that the project for which it is granted is in the public interest?	042428.docx	LEGALEASE-00126950- LEGALEASE-00126951

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
City of Tallahassee v. Mann, 411 So. 2d 162	145+11.3(1)	Public Service Commission does not have jurisdiction over a municipal electric utility's rates although it has jurisdiction to prescribe a rate structure for all utilities and, for such purpose, "rates" refers to the dollar amount charged for a particular service or an established amount of consumption while "rate structure" refers to the classification system used in justifying different rates. West's F.S.A. S 366.04(2)(b).	Does the Public Service Commission (PSC) have jurisdiction over the rate structure of municipal utilities?	042434.docx	LEGALEASE-00127017-LEGALEASE-00127018
Liberty Mut. Ins. Co. v. Perfect Knowledge, 299 A.D.2d 524	366+35	Waiver of subrogation provisions, which reflect the parties' allocation of the risk of liability between themselves to third parties through the device of insurance, are generally valid and enforceable.	Are waiver-of-subrogation provisions valid and enforceable?	044255.docx	LEGALEASE-00127116-LEGALEASE-00127117
Murray v. Cadle Co., 257 S.W.3d 291	366+1	The trial court must balance the equities in view of the totality of the circumstances to determine whether a party is entitled to equitable subrogation.	Does subrogation depends on a balancing of equities?	044271.docx	LEGALEASE-00126954-LEGALEASE-00126956
McDonald v. Bryson, 97 Ga. App. 466	13+65	Where suit is filed on a chose in action and during pendency of suit plaintiff obtains an assignment of his chose in action, demurrer based on such assignment will be sustained and petition dismissed inasmuch as a plaintiff may recover only upon facts as they exist at time of commencement of action.	Can a plaintiff recover only upon facts as they exist at time of commencement of action?	Action - Memo # 649 - C - KA.docx	ROSS-003313391-ROSS-003313392
Holt v. Wissinger, 145 Conn. 106	13+65	Equitable relief, whether injunctive or otherwise, is to be granted, if at all, only on situation as it exists at time of trial, even though past conduct may be considered in determining, at time of trial, probability of future conduct warranting injunctive relief.	Is injunctive relief to be granted only in a situation as it exists at the time of trial?	005869.docx	LEGALEASE-00127309-LEGALEASE-00127310
Hoffmann v. T.J. Ronan Co., 275 A.D. 57	13+65	In equity action, state of facts existing at time of trial, not at commencement of action, controls.	"In actions in equity, does the state of facts existing at the time of the trial control?"	Action - Memo # 679 - C - KG.docx	ROSS-003303367-ROSS-003303369
Mediacom Commc'ns Corp. v. Sinclair Broad. Grp., 460 F. Supp. 2d 1012	212+1064	Conditions at time of hearing, rather commencement of suit, will generally be basis for any injunctive relief.	Does a condition existing at the time of hearing of the suit furnish a basis for injunctive relief?	005939.docx	LEGALEASE-00127822-LEGALEASE-00127823
Costello v. United States, 365 U.S. 265	150+72(1)	Laches requires proof of lack of diligence by party against whom defense is asserted and prejudice to party asserting the defense.	Are elements necessary to the recognition of defense of laches proof of lack of diligence by the party against whom it is asserted and prejudice to the party asserting such defense?	006031.docx	LEGALEASE-00127325-LEGALEASE-00127326
Minnesota Min. & Mfg. Co. v. Plymouth Rubber Co., 178 F. Supp. 591	13+65	The existence of a cause of action is to be tested as of time of filing of complaint and no recovery may be had if no cause be shown to exist at that time.	Is the existence of a cause of action to be tested as of the time of filing of the complaint?	006058.docx	LEGALEASE-00127545-LEGALEASE-00127546
Knapp-Monarch Co. v. Casco Prod. Corp., 342 F.2d 622	13+65	Cause of action is to be tested as of time of filing of complaint and if no active infringement occurred before filing of complaint, it is fatally defective and cannot be cured by infringement after filing.	"If no act of patent infringement occurred prior to filing of a complaint, is it fatally defective?"	006060.docx	LEGALEASE-00127553-LEGALEASE-00127554
Richardson v. Richardson, 309 Mich. 336	13+65	Conditions existing at time of commencement of legal action govern in determining issues therein. Comp.Laws 1929, S 13972.	Do conditions existing at the time of the commencement of legal action govern in determining issues therein?	006068.docx	LEGALEASE-00127654-LEGALEASE-00127655
Pokorny v. Quixtar, 601 F.3d 987	25T+134(6)	Agreements to arbitrate must contain at least a modicum of bilaterality to avoid unconscionability under California law.	Should arbitration agreements contain at least a modicum of bilaterality to avoid unconscionability?	Alternative Dispute Resolution - Memo 445 - RK.docx	ROSS-003290008-ROSS-003290009

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Lomax v. Woodmen of World Life Ins. Soc'y, 228 F. Supp. 2d 1360	25T+134(6)	Generally, prohibiting class wide arbitration does not render an otherwise valid arbitration clause unconscionable.	Does prohibiting class wide arbitration render an otherwise valid arbitration clause unconscionable?	Alternative Dispute Resolution - Memo 447 - RK.docx	ROSS-003284994-ROSS-003284995
United States v. Gundy, 842 F.3d 1156	67+2	The generic, contemporary definition of burglary consists of these elements: (1) an unlawful or unprivileged entry into, or remaining in, (2) a building or other structure, (3) with intent to commit a crime therein.	What are the elements of burglary?	Burglary - Memo 8 - RK.docx	LEGALEASE-00017538-LEGALEASE-00017539
Greater Wilmington Transp. Auth. v. Kline, 285 A.2d 819	317A+141	State Public Service Commission is essentially a regulatory body performing certain statutorily authorized legislative functions, not including the granting of franchises. 26 Del.C. SS 127, 162.	Is the Public Service Commission essentially a regulatory body?	042462.docx	LEGALEASE-00127700-LEGALEASE-00127701
Hancock Fabrics v. Alterman Real Estate I, 302 Ga. App. 568	217+3522	Waiver of subrogation clauses in leases are enforceable even in the absence of a requirement that either party purchase insurance.	Is a waiver of subrogation clauses in leases enforceable?	043426.docx	LEGALEASE-00127732-LEGALEASE-00127733
Hancock Fabrics v. Alterman Real Estate I, 302 Ga. App. 568	217+3522	Waiver of subrogation clauses in leases are enforceable even in the absence of a requirement that either party purchase insurance.	Are waiver of subrogation clauses in lease agreements enforceable?	043444.docx	LEGALEASE-00127807-LEGALEASE-00127809
St. Paul Fire & Marine Ins. Co. v. Amerada Hess Corp., 275 N.W.2d 304	366+35	Waiver of right of subrogation must be by act of subrogee; it cannot be contracted away by conduct or agreement of third parties.	Is a waiver of the right of subrogation an act of the subrogee?	Subrogation - Memo # 1203 - C - KBM.docx	ROSS-003285393-ROSS-003285394
Travelers Indem. Co. of Connecticut v. Losco Group, 204 F. Supp. 2d 639	366+35	Under New York law, claims for gross negligence are not precluded by waivers of subrogation provisions.	Are claims for gross negligence precluded by waivers of subrogation provisions?	043540.docx	LEGALEASE-00127749-LEGALEASE-00127751
Am. Zurich Ins. Co. v. Barker Roofing, 387 S.W.3d 54	217+3522	Indemnification clause in subcontract pertaining to claims or losses incurred due to delay in subcontractor's performance of the subcontract work as directed by prime contractor or in accordance with the subcontract's terms due to inadequate staffing, due to delay in preparation, procurement or purchasing, due to correction of defective work, or due to sub-subcontractor delay, labor issues, and insolvency did not modify owner's and prime contractor's contractual waiver of all rights against subcontractors for damages covered by property insurance.	"Does the project owner's and contractor's contractual waiver of all rights against subcontractors ""for damages caused by fire"" waive all rights for fire damage?"	043545.docx	LEGALEASE-00127756-LEGALEASE-00127757
In re Berg, 387 B.R. 524	366+35	Under Illinois law, conventional subrogation will be applied even when the record shows a release of the satisfied encumbrance.	Will conventional subrogation be applied even when the record shows a release of the satisfied encumbrance?	043572.docx	LEGALEASE-00127666-LEGALEASE-00127667
State v. Labor & Indus. Review Comm'n, 136 Wis. 2d 281	92+2528	Because law of worker's compensation is statutory, public policy questions concerning its scope and fairness are for legislature, not courts. W.S.A. 102.17(4), 102.66.	Are policy considerations in workers compensation matters for the legislature or the courts?	048534.docx	LEGALEASE-00127398-LEGALEASE-00127399
State ex rel. Priest v. Gunn, 326 S.W.2d 314	13+65	Matters arising pendente lite may be pleaded in defense by respondent in mandamus proceeding or by the relator in his replication.	Can matters arising pendentelite be pleaded in defense by respondent in mandamus proceeding or by the relator in his replication?	Action - Memo # 829 - C - VA.docx	ROSS-003284909-ROSS-003284911
Morales v. Sun Constructors, 541 F.3d 218	25T+135	Arbitration clauses may be attacked under such grounds as exist at law or in equity for the revocation of a contract.	Can arbitration provisions be attacked under grounds that exist at law or in equity for the revocation of a contract?	007250.docx	LEGALEASE-00128651-LEGALEASE-00128652

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United States v. Jacques, 463 F.2d 653	34+20.1(1)	Constitutional grant of power to raise and support armies is not dependent on a declaration of war and fact that there has been no formal declaration of war does not, therefore, affect the congressional power of conscription. Military Selective Service Act, SS 1 et seq., 12(a), 50 U.S.C.A. App. SS 451 et seq., 462(a).	Does Congress have the power to compel military service in peacetime?	008316.docx	LEGALEASE-00128602- LEGALEASE-00128603
Padilla ex rel. Newman v. Bush, 233 F. Supp. 2d 564	34+1	President may exercise his powers as Commander in Chief without a declaration of war.	Can the president exercise his powers as commander in chief without a declaration of war?	008353.docx	LEGALEASE-00128413- LEGALEASE-00128414
In re Bridges, 28 S.W.3d 191	287+65(1)	The right to a nonsuit exists at the moment a written motion is filed with the clerk of the court, and the granting of a nonsuit is merely a ministerial matter. Vernon's Ann.Texas Rules Civ.Proc., Rules 162, 163.	Does the party requesting a non-suit have an absolute right to a non-suit at the moment the motion is filed?	038861.docx	LEGALEASE-00128308- LEGALEASE-00128309
Bell v. Hummel, 136 Cal. App. 3d 1009	30+105	Generally, voluntary dismissal by plaintiff where defendant has not sought affirmative relief is effective immediately and no appeal lies therefrom.	Is a voluntary dismissal effective immediately?	Pretrial Procedure - Memo # 953 - C - ES.docx	ROSS-003286873-ROSS- 003286874
In re New York Skyline, 432 B.R. 66	307A+501	Under New York law, stipulation of discontinuance "with prejudice" is narrowly interpreted when the interests of justice, or the particular equities involved, warrant such an approach.	How does the court interpret or construe the language with prejudice when interests of justice or particular equities are involved?	039045.docx	LEGALEASE-00128251- LEGALEASE-00128252
Erie R. Co. v. Pub. Utilities Comm'n of Ohio, 123 Ohio St. 682	320+227	In railroads' purely interstate operations, publication of notice of filing of application and proof of public convenience and necessity are unnecessary.	Is the publication of a notice for filing an application required in a purely interstate operation as per the Public Utilities Commission?	042476.docx	LEGALEASE-00128188- LEGALEASE-00128189
St. Paul Fire & Marine Ins. Co. v. Universal Builders Supply, 317 F. Supp. 2d 33	217+3522	Under New York law, parties to agreement may waive their insurer's right of subrogation; however, waiver of subrogation clause cannot be enforced beyond scope of specific context in which it appears.	Can a waiver of subrogation provision be enforced beyond the scope what appears in a contract?	043232.docx	LEGALEASE-00128450- LEGALEASE-00128452
St. Paul Fire & Marine Ins. Co. v. Universal Builders Supply, 317 F. Supp. 2d 33	366+35	Under New York law, enforcement of waiver of subrogation depends on specific terms of waiver as executed by parties.	Does enforcement of waiver of subrogation depend on specific terms of waiver as executed by parties?	043275.docx	LEGALEASE-00128463- LEGALEASE-00128464
St. Paul Fire & Marine Ins. Co. v. Universal Builders Supply, 317 F. Supp. 2d 33	366+35	Under New York law, waiver of subrogation clause can bar subrogated claim for gross negligence.	"Under law, can a waiver of subrogation clause bar a subrogated claim for gross negligence?"	043277.docx	LEGALEASE-00128475- LEGALEASE-00128476
Pecot v. Hill, 227 La. 131	13+65	Generally, a plaintiff's right to relief depends upon existence of such right at inception of suit.	Does a plaintiff's right to relief depend upon the existence of such right at the inception of the suit?	Action - Memo # 842 - C - DA.docx	ROSS-003300401-ROSS- 003300402
Manor Bldg. Corp. v. Manor Complex Assocs., Ltd., 435 Pa. Super. 246	8.30E+05	Purpose of Uniform Commercial Code (UCC) is to enhance marketability of negotiable instruments and to allow bankers, brokers, and general public to trade in confidence. 13 Pa.C.S.A. S 3101 et seq.	What is the purpose of the Universal Commercial Code?	Bills and Notes - Memo 145 - RK.docx	ROSS-003327100-ROSS- 003327101
Jones v. Bruce, 211 S.W. 692	289+502	In a contest between alleged partners, the proof of partnership must be by the clearest and most positive evidence.	Will the proof of partnership have to be by the clearest and most positive evidence when partnership has been contested between alleged partners?	021993.docx	LEGALEASE-00128917- LEGALEASE-00128918
Colorado Performance Corp. v. Mariposa Associates, 754 P.2d 401	226H+17	A joint venture is a partnership formed for a limited purpose; hence, the substantive law of partnerships must be applied in determining whether a joint venture exists.	Is the substantive law of partnership applicable to joint ventures?	Partnership - Memo 239 - RK.docx	LEGALEASE-00018716- LEGALEASE-00018717

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Dickenson Manor v. Slagle, 732 S.W.2d 263	401+5.3(1)	Phrase "whereby the title thereto may be affected" in statute providing "Suits for the possession of real estate, or whereby the title thereto may be affected, or for the enforcement of the lien of any special tax bill thereon, shall be brought in the county where such real estate, or some part thereof, is situated," means that judgment must operate directly upon the real estate title. V.A.M.S. S 508.030.	How is the term whereby the title may be affected interpreted by the courts?	047496.docx	LEGALEASE-00128883-LEGALEASE-00128884
City of San Benito v. Rio Grande Valley Gas Co., 109 S.W.3d 750	250+187.5	Unnamed class members did not waive challenge to denial of opt-out requests by failing to seek appellate or mandamus review until after final judgment and by failing to seek mandamus relief in the Supreme Court after the court of appeals denied mandamus relief; the members had no right to interlocutory appeal from initial denial of opt-out requests a year before final judgment, and filing a request for an extraordinary writ was not a prerequisite to an appeal. V.T.C.A., Civil Practice & Remedies Code S 51.014.	Is filing a request for an extraordinary writ a prerequisite to an appeal?	Appeal and error - Memo 32 - RK.docx	ROSS-003300494-ROSS-003300496
Clohset v. No Name Corp., 302 Mich. App. 550	228+489	Lack of subject matter jurisdiction can be collaterally attacked, whereas the exercise of that jurisdiction can be challenged only on direct appeal.	Can the lack of subject matter jurisdiction be collaterally attacked?	Appeal and error - Memo 36 - RK.docx	ROSS-003313976-ROSS-003313978
Liberty Loan Corp. of Eunice v. Lavine, 324 So. 2d 481	83E+417	If instrument is originally bearer paper, it forever remains bearer paper, in spite of special endorsements. LSA-R.S. 7:40.	Does an instrument which is originally bearer paper remain so after special endorsements?	009372.docx	LEGALEASE-00129024-LEGALEASE-00129025
State ex rel. Little Prairie Special Rd. Dist. of Pemiscot Cty. v. Thompson, 315 Mo. 56	200+121	Road district, being municipal corporation, can levy general taxes on property within its boundaries for purposes of district.	Can a Road district levy general taxes on property?	Highways - Memo 39 - RK.docx	LEGALEASE-00018962-LEGALEASE-00018963
Temple v. Cotton Transfer Co., 126 Neb. 287	307A+501	"Dismissal" in effect is equivalent of "nonsuit," and, in practice, also imports the same thing as "discontinuance."	"Is a ""dismissal"" in effect equivalent of a ""nonsuit,"" and, does it in practice imports the same thing as ""discontinuance""?"	026221.docx	LEGALEASE-00129111-LEGALEASE-00129112
Senseley v. First Nat. Life Ins. Co., 205 La. 61	307A+501	Plaintiff has control of a suit and the right to discontinue or dismiss it at any time except where rights of defendant are prejudiced, and as respects a reconventional demand the defendant has similar control and rights. Code Prac. art. 491.	Does a plaintiff have control of a suit and the right to discontinue or dismiss it at any time?	Pretrial Procedure - Memo # 1310 - C-BP.docx	LEGALEASE-00018972-LEGALEASE-00018973
Copar Pumice Co. v. Bosworth, 502 F. Supp. 2d 1200	260+29	The Forest Service is authorized to manage surface resources by federal statute, but not to interfere with mining claims. Multiple Use Mining Act of 1955, S 4, 30 U.S.C.A. S 612.	Is the Forest Service authorized to interfere with mining claims?	Woods and Forest - Memo 35 - RK.docx	ROSS-003301818-ROSS-003301819
Copar Pumice Co. v. Bosworth, 502 F. Supp. 2d 1200	260+29	The Forest Service is authorized to manage surface resources by federal statute, but not to interfere with mining claims. Multiple Use Mining Act of 1955, S 4, 30 U.S.C.A. S 612.	Is the Forest Service authorized to manage surface resources?	Woods and Forest - Memo 37 - RK.docx	LEGALEASE-00018980-LEGALEASE-00018981
Thomson-CSF, S.A. v. Am. Arbitration Ass'n, 64 F.3d 773	25T+141	Traditional principles of agency law may bind nonsignatory to arbitration agreement.	Can traditional principles of agency law bind a nonsignatory to an arbitration agreement?	007336.docx	LEGALEASE-00129618-LEGALEASE-00129619
Scates v. Arizona Corp. Comm'n, 118 Ariz. 531	30+14(2)	Superior court's entry of judgment based on specific mandate and opinion of Court of Appeals is nonappealable.	Is a superior court's entry of judgment based on a specific mandate appealable?	Appeal and error - Memo 60 - RK.docx	ROSS-003326095-ROSS-003326096

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Evans v. Charity Hosp. in New Orleans, 2000-0202 (La. App. 4 Cir. 11/14/01), 801 So. 2d 1192	106+204	Difference between supervisory jurisdiction and appellate jurisdiction is that the former is discretionary on the part of the appellate court while the latter is invocable by the litigant as a matter of right.	What is the difference between appellate and supervisory jurisdiction?	008240.docx	LEGALEASE-00129455- LEGALEASE-00129456
Com. v. Spano, 451 Pa. Super. 226	30+21	Neither silence nor agreement of parties will confer jurisdiction where it otherwise would not exist; therefore, even if a party fails to raise issue of jurisdiction, it is still affirmative duty of Superior Court to consider issue of subject-matter jurisdiction.	Can parties waive issues regarding appellate jurisdiction and confer jurisdiction on the Supreme Court by agreement?	Appeal and error - Memo 67 - RK.docx	LEGALEASE-00019040- LEGALEASE-00019042
McReynolds v. Benner Twp., 368 Pa. Super. 301	30+23	Although neither party raised the issue, Superior Court could consider sua sponte whether it had jurisdiction over the case.	Can a court raise the issue of its jurisdiction sua sponte?	008273.docx	LEGALEASE-00129583- LEGALEASE-00129584
Killough v. Killough, 373 So. 2d 336	134+178	Marriage is dissolved by death of a party and an action pending for dissolution by divorce is terminated and absolutely abated by the death, but if there is a judgment affecting property rights, death of a party may not affect right of unsuccessful party or his representative to institute vacation proceedings or proceed to appeal.	Is an appeal permitted to proceed after the death of a party?	008280.docx	LEGALEASE-00129589- LEGALEASE-00129590
Landry v. Minvielle, 219 So. 2d 235	30+334(1)	An appeal cannot be prosecuted in name of a person deceased, and any judgment rendered by an appellate court for or against one deceased and not represented before it, is an absolute nullity. Uniform Rules, Courts of Appeal, rule 13, S 2, 8 LSA-R.S.	Will an appeal on behalf of a deceased person be treated as a nullity?	008284.docx	LEGALEASE-00129593- LEGALEASE-00129594
In re Kolben's Estate, 203 Misc. 1012	8.30E+76	Although death of the drawer of a check given for a valuable consideration does not terminate the drawer's liability upon the instrument, it does operate to revoke the authority of the payee to collect from the drawee, and the payee is entitled only to a recovery from the drawer's estate as a general creditor, since payee acquired no vested right in funds in hands of the drawee, but the title thereto has passed to drawer's legal representative. Negotiable Instruments Law, S 325.	Does the death of the maker of a check or instrument terminate his liability?	Bills and Notes - Memo 171 - RK.docx	LEGALEASE-00019094- LEGALEASE-00019095
State v. Ralph Williams N. W. Chrysler Plymouth, 87 Wash. 2d 298	67+2	Crime of burglary is complete when entry has been made into an automobile without the owner's consent and with an intent to commit a felony, theft, or assault; consummation of the intended felony, theft, or assault is not necessary to complete the crime. T.C.A. S 39-14-402(a)(4).	When is the crime of burglary complete?	Burglary - Memo 44 - RK.docx	ROSS-003300684-ROSS- 003300686
Com. v. Simpson, 316 Pa. Super. 115	210+815	Criminal trespass is not a lesser included offense of burglary, since one of the elements of the former is knowledge by defendant that he was not privileged to enter, which is not an element of burglary.	Is knowledge an element of burglary?	013232.docx	LEGALEASE-00129645- LEGALEASE-00129646
State v. Pierre, 131 So. 3d 319, 324	67+9(2)	To constitute simple burglary, it is sufficient if entry into vehicle is accomplished by opening hood and it is not necessary that there be entry into part of vehicle capable of or designed to accommodate a person. LSA-R.S. 14:3, 14:62, 14:67, 14:68.	Does opening the hood of a vehicle constitute burglary?	013247.docx	LEGALEASE-00129657- LEGALEASE-00129658
Sealey v. Bd. of Educ., 14 S.W.3d 597	141E+449	Mere possession of a teaching certificate, without more, does not satisfy the statutory definition of a teacher. V.A.M.S. S 168.104(7).	Does mere possession of a teaching certificate satisfies the statutory definition of a teacher?	016968.docx	LEGALEASE-00129263- LEGALEASE-00129264

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Brooks v. Sch. Dist. of City of Moberly, Mo., 267 F.2d 733	316P+145	Under Missouri law, a teacher, on expiration of his contract, has neither contractual nor statutory rights to continued employment. V.A.M.S. S 163.090.	Does a teacher on expiration of his contract has contractual or statutory rights to continued employment?	016982.docx	LEGALEASE-00129279- LEGALEASE-00129280
DeLong v. Bd. of Ed. of Sw. Sch. Dist., 36 Ohio St. 2d 62	141E+560	Teacher had no statutory right to reemployment upon expiration of her three-year limited contract, despite recommendation of superintendent that she be reemployed under a continuing contract. R.C. S 3319.11.	Does a teacher on expiration of his contract has contractual or statutory rights to continued employment?	Education - Memo # 87 - C- NA.docx	LEGALEASE-00019190- LEGALEASE-00019191
People v. McCue, 150 Cal. 195	388+398	In an action by the people to abate an obstruction in a highway, the complainant alleged certain probative facts but alleged that the street was a public highway, and the court, in addition to finding the probative facts alleged, found, under the "findings of facts," that the street was a public highway. Held that, though the former facts found did not show that the street was a public highway, such fact was of no avail to defendant on appeal, as the latter finding of the court was a finding of an ultimate fact and could not be treated as a conclusion of law or as a mere general conclusion of fact from the specific facts previously found.	"Is an allegation that a street is a highway, an allegation of ultimate fact?"	023129.docx	LEGALEASE-00129463- LEGALEASE-00129465
Cook v. Lichtblau, 176 So. 2d 523	307A+501	Plaintiff may not terminate action as matter of right by taking nonsuit whether voluntary or involuntary. 30 F.S.A. Rules of Civil Procedure, rule 1.35.	Is a plaintiff entitled to take nonsuit as a matter of right?	023998.docx	LEGALEASE-00129446- LEGALEASE-00129448
Harvey Aluminum v. Am. Cyanamid Co., 203 F.2d 105	170A+1692	The purpose of the rule permitting voluntary dismissal is to facilitate voluntary dismissals, and to limit them to an early stage of the proceedings before issue is joined. Fed.Rules Civ.Proc. rule 41(a)(1), 28 U.S.C.A.	Does the rule related to voluntary dismissal limit such dismissal as a matter of right to the early stages of litigation?	Pretrial Procedure - Memo # 1003 - C - SK.docx	LEGALEASE-00019244- LEGALEASE-00019245
Mass v. Superior Court In & For City & Cty. of San Francisco, 197 Cal. App. 2d 430	307A+597	Since exceptions to operation of dismissal statutes must be strictly construed, mere discussion of delay is not sufficient and there must be specific agreement to waive provisions of statute. West's Ann.Code Civ.Proc. S 583.	Should the exceptions to the operation of dismissal statutes be strictly construed?	Pretrial Procedure - Memo # 1038 - C - KI.docx	ROSS-003286922-ROSS- 003286924
Knightstown Banner v. Town of Knightstown, 882 N.E.2d 270	307A+501	The test for determining whether a voluntary dismissal is proper is whether the opposing party would be substantially prejudiced by dismissal. Trial Procedure Rule 41(A)(2).	What is the test for determining whether a voluntary dismissal is proper?	Pre-trial Procedure - Memo # 1044 - C - KG.docx	ROSS-003328117-ROSS- 003328118
Jacobs v. Jacobs, 127 Misc. 505	307A+501	Right to discontinue matrimonial action may be denied in its entirety, unconditionally, in proper case.	"Can the right to discontinue a matrimonial action be denied in its entirety, unconditionally?"	026235.docx	LEGALEASE-00129449- LEGALEASE-00129450
State ex rel. Meramec Iron Co. v. Gaddy, 83 Mo. 138	307A+501	It is only where the action of the court on the trial is such as to preclude the plaintiff from a recovery that it is proper to suffer a nonsuit.	Is it only where the action of the court on the trial is such as to preclude the plaintiff from a recovery that it is proper to suffer a nonsuit?	Pretrial Procedure - Memo # 1329 - C - RY.docx	ROSS-003301218-ROSS- 003301219
Bd. of Trustees of City of Delray Beach Police & Firefighters Ret. Sys. v. Citigroup Glob. Markets, 622 F.3d 1335	25T+141	Determination of whether a signatory has authority to bind non-signatory to arbitrate turns on specific facts of each case.	How do courts determine the authority of a signatory to bind a non-signatory to arbitrate?	Alternative Dispute Resolution - Memo 510 - RK.docx	LEGALEASE-00019558- LEGALEASE-00019559
Thomson-CSF, S.A. v. Am. Arbitration Ass'n, 64 F.3d 773	25T+141	As a general matter, corporate relationship alone is not sufficient to bind nonsignatory to arbitration agreement.	Is a corporate relationship sufficient to bind a nonsignatory to an arbitration agreement?	Alternative Dispute Resolution - Memo 519 - RK.docx	ROSS-003286516-ROSS- 003286517

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Jones v. State Bd. of Ed. Of & For State of Tenn., 279 F. Supp. 190	67+4	Removal of a wheel, tire, hub cap, or lug nuts, or any combination of the above, from the outside of a conveyance could not constitute burglary, as there was no intent to commit an offense within the vehicle. West's F.S.A. S 810.02.	Does the removal of tires from a vehicle constitute burglary?	013224.docx	LEGALEASE-00129707-LEGALEASE-00129708
Rose v. Rose, 526 N.E.2d 231	307A+501	Generally, voluntary dismissal should be allowed unless defendant will suffer some legal prejudice other than mere prospect of second suit. Trial Procedure Rule 41(A, C).	Should dismissal be allowed if a defendant suffers some legal prejudice?	025193.docx	LEGALEASE-00129831-LEGALEASE-00129832
Dobson v. Crews, 164 So. 2d 252	307A+501	Voluntary nonsuit or dismissal may be effected only by compliance with applicable rule. 30 F.S.A. Rules of Civil Procedure, rule 1.35(a).	Can a voluntary nonsuit or dismissal be effected only by compliance with applicable rules?	Pretrial Procedure - Memo # 1071 - C - SHS.docx	ROSS-003287667-ROSS-003287668
Mays v. Disneyland, 213 Cal. App. 2d 297	307A+742.1	Purpose of pretrial is to expedite proceedings and to facilitate correct determination of issues and pretrial proceeding should not become trap for unwary.	Should the purpose of a pretrial proceeding become a trap for the unwary?	026260.docx	LEGALEASE-00129823-LEGALEASE-00129824
Brown v. Hardin, 197 Kan. 517	307A+742.1	At pretrial conference court may make any determination that will aid in fair, orderly and efficient disposition of the action. K.S.A. 60-216.	What determination will the court make at a pretrial conference?	026327.docx	LEGALEASE-00129893-LEGALEASE-00129894
Conover v. Smith, 20 Ill. App. 3d 258	307A+44.1	Purpose of sanctions of Supreme Court rule governing failure to comply with order or rules relating to discovery or pretrial conferences is to coerce cooperation rather than to dispose of litigation as a form of punishment. Supreme Court Rules, rule 219(c), S.H.A. ch. 110A, S 219(c).	What is a pretrial conference?	026333.docx	LEGALEASE-00129921-LEGALEASE-00129922
Thomas v. Gray, 19 Mich. App. 90	307A+742.1	Although intended objective of pretrial procedure is to permit party to rely on pretrial statement to frame issues to be tried, primary concern is to see that justice prevails.	Is it the primary concern of a pretrial procedure to see that justice is done?	026334.docx	LEGALEASE-00129940-LEGALEASE-00129941
Malerbi v. Cent. Reserve Life of N. Am. Ins. Co., 225 Neb. 543	307A+742.1	Pretrial conferences are conducted to simplify issues, amend pleadings, and avoid unnecessary proof of facts at trial and to avoid traps and surprises at trial.	What is the purpose of pretrial conference and what does it avoid?	Pretrial Procedure - Memo # 1401- C - SHB.docx	LEGALEASE-00019838-LEGALEASE-00019839
King v. Zimmerman, 266 Mont. 54	307A+743	Purpose of pretrial orders is to prevent surprise, simplify issues, and permit counsel to prepare their case for trial on basis of pretrial orders.	Does a pretrial order prevent surprise?	Pretrial Procedure - Memo # 1420 - C - VA.docx	ROSS-003314485-ROSS-003314488
Cook v. Nacogdoches Anesthesia Grp., L.L.P., 167 S.W.3d 476	307A+501	The party requesting a nonsuit has an absolute right to a nonsuit at the moment the motion is filed with the clerk, so long as the motion is timely filed.	Does a moving party have an absolute right to nonsuit when a motion for voluntary nonsuit is timely?	026602.docx	LEGALEASE-00130008-LEGALEASE-00130010
Rose v. Rose, 526 N.E.2d 231	307A+501	Generally, voluntary dismissal should be allowed unless defendant will suffer some legal prejudice other than mere prospect of second suit. Trial Procedure Rule 41(A, C).	"Should dismissal of a plaintiff's action be allowed, even if a defendant suffers a prospect of a second lawsuit?"	026605.docx	LEGALEASE-00130011-LEGALEASE-00130012
People v. Hayward, 54 Misc. 3d 19	399+1	Allegations that defendant was on a public sidewalk when he approached pedestrians while holding compact discs (CD), spoke to the pedestrians, and followed them for approximately one block, were insufficient to support an inference that defendant's purpose was to obtain an immediate donation or solicit a sale, as required to support conviction for aggressive begging. New York City Administrative Code, S 10-136(a)(2).	Does soliciting a sale support a conviction for aggressive begging?	047456.docx	LEGALEASE-00129805-LEGALEASE-00129806

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Clanton v. Cain-Sloan Co., 677 S.W.2d 441	413+1	Provisions of workers' compensation law, providing an expeditious and certain recovery from the employer while limiting the amount of liability to which the employee is exposed, create a duty on the employer to compensate the employee for work-related injuries and a right of the employee to receive such compensation. T.C.A. SS 50-6-102, 50-6-103, 50-6-108, 50-6-111, 50-6-225, 50-6-226.	Do the provisions of the Workers Compensation Law create a duty on the employers to compensate the employees for work-related injuries?	Workers Compensation - Memo # 130 ANC.docx	LEGALEASE-00020080- LEGALEASE-00020081
Qualcomm Inc. v. Am. Wireless License Grp., 980 So. 2d 261	25T+138	While court will read the reach of an arbitration agreement between parties broadly, that is a different matter from the question of who may invoke its protections; this is so because an agreement to arbitrate is a waiver of valuable rights that are both personal to the parties and important to the open character of state and federal judicial systems, an openness to which the country has been committed from its inception.	Do courts construe the reach of an arbitration agreement broadly?	007300.docx	LEGALEASE-00130979- LEGALEASE-00130980
Leyva v. Certified Grocers of California, Ltd., 593 F.2d 857	25T+143	A limitation on the arbitrator's power is not a reason for bypassing arbitration where claim is made upon the contract itself and is within the scope of the arbitration clause.	Is limitation on an arbitrators power a reason for bypassing arbitration?	007403.docx	LEGALEASE-00131364- LEGALEASE-00131365
Maria Victoria Naviera, S.A. v. Cementos Del Valle, S.A., 759 F.2d 1027	25T+143	Where scope of arbitration agreement was unlimited, issues addressed to liability of parties and cancellation of underlying agreement, rather than agreement to arbitrate, were to be determined by arbitrator.	"When the scope of the arbitration agreement is unlimited, what is to be determined by the arbitrator?"	007407.docx	LEGALEASE-00131368- LEGALEASE-00131369
McMahon v. RMS Elecs., 618 F. Supp. 189	25T+143	When a tort claim is based in substantial part on contractual rights and responsibilities of the two contracting parties, then it must be arbitrated as required by arbitration clause.	When can a tort claim be arbitrated?	Alternative Dispute Resolution - Memo 550 - RK.docx	ROSS-003287240-ROSS- 003287241
United States v. Shober, 489 F. Supp. 393	306+50	In prosecution for mail fraud and bribery, whether defendant paid certain money to congressmen with "corrupt" intent to influence his official action on defendant's application for federal funding or merely as part of a "traditional" business practice of tendering political contributions to promote favorable business climate for federal funds which defendant needed was question for jury to decide at trial; similarly, whether defendant was victim of extortion or bribery was question for jury to decide.	Is the jury required to determine the defendant's intent for bribery cases?	011075.docx	LEGALEASE-00130360- LEGALEASE-00130361
United States v. Nagin, 810 F.3d 348	63+1(1)	A conviction for bribery or "honest-services" wire fraud does not require proof that the official intended to be influenced in his official actions. 18 U.S.C.A. S 201(b)(2).	Does the conviction for bribery require proof that the official intended to be influenced in his official actions?	Bribery - Memo # 74 - C - JL.docx	LEGALEASE-00020228- LEGALEASE-00020229
United States v. Cisneros, 826 F.3d 1190	67+4	Generic burglary has the basic elements of unlawful or unprivileged entry into, or remaining in, a building or structure, with intent to commit a crime; however, the "building or structure" element of generic burglary does not include booths, vehicles, boats, or aircrafts.	Does generic burglary include entry into vehicles and boats?	Burglary - Memo 20 - RK.docx	ROSS-003300668-ROSS- 003300670

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Howard, 742 F.3d 1334	350H+1285	Alabama's third-degree burglary statute, which was non-generic because the statutory definition of "building" included vehicles and watercraft, which fell outside the "building or structure" element of generic burglary, was an indivisible statute, and thus, defendant's prior convictions under that statute did not qualify as predicate burglary convictions for purposes of application of the Armed Career Criminal Act (ACCA) in defendant's sentencing for being a felon in possession of a firearm; the Alabama statute's definition of "building" was not drafted in the alternative, but instead, the statute provided one definition of building and then included a non-exhaustive list of things that fell under that definition, including any vehicle or watercraft used for the lodging of persons. 18 U.S.C.A. S 924(e); Ala.Code 1975, SS 13A-7-1(2), 13A-7-7(a).	Does generic burglary include entry into vehicles and boats?	012821.docx	LEGALEASE-00131286- LEGALEASE-00131287
State v. Simons, 65 N.C. App. 164	67+10	If a burglarized dwelling is occupied, the crime is "burglary in the first degree," but if it is unoccupied, however momentarily, and whether known to the intruder or not, the crime is "burglary in the second degree." G.S. SS 14-51, 14-54.	What is burglary in the first degree?	013186.docx	LEGALEASE-00131325- LEGALEASE-00131326
State v. Little, 126 S.W. 713	67+2	The common-law offense of burglary is committed when a person breaks or enters into the dwelling house or sleeping apartment of another in the nighttime with the intent to commit a felony therein.	What is common law burglary?	Burglary - Memo 41 - RK.docx	ROSS-003327202-ROSS- 003327203
State v. Mestas, 2370 P.3d 805	67+9(2)	A given entry is "unauthorized" within meaning of the burglary statute if it violates or potentially violates the possessory rights, particularly the right to exclude, and privacy interests of a protected structure's rightful occupant. West's NMSA S 30-16-3.	What is unauthorized entry for the crime of burglary?	013284.docx	LEGALEASE-00131441- LEGALEASE-00131442
Alexander v. Haffner, 323 Mo. 1197	307A+501	Term "discontinuance" held to indicate merely that plaintiff has taken nonsuit or that dismissal has been had.	"Is the term ""discontinuance"" held to indicate merely that a plaintiff has taken a nonsuit or that dismissal has been had?"	026074.docx	LEGALEASE-00130779- LEGALEASE-00130780
Pershing v. Ward, 34 N.M. 298	307A+508	Under section 4295, Code of 1915, a defendant who has filed a counterclaim against plaintiff in a cause tried to the court has the right to dismiss without prejudice before judgment is rendered.	"Does a defendant, in a cause tried to court, have a right to dismiss his counterclaim without prejudice before judgment?"	026076.docx	LEGALEASE-00130812- LEGALEASE-00130813
In re Carton, 48 N.J. 9	307A+747.1	The sense of rule that pretrial order shall be signed by court and attorneys for the parties is that counsel should never be required to sign an order he does not consider adequate to cover his position. R.R. 4:29-1(b).	Should a counsel sign an order that he does not consider adequate to cover his position?	026763.docx	LEGALEASE-00130311- LEGALEASE-00130312
Palace Expl. Co. v. Petroleum Dev. Co., 316 F.3d 1110	170A+1922	Purpose of rule providing that a pretrial order controls subsequent course of the action unless modified by a subsequent order is to avoid surprise, not foment it. Fed.Rules Civ.Proc.Rule 16, 28 U.S.C.A.	Does the pretrial order govern the subsequent course of the action unless modified by a later order?	Pretrial Procedure - Memo # 1674 - C - AP.docx	ROSS-003287907-ROSS- 003287908
150 Centreville v. Lin Assocs. Architects, PC, 39 Misc. 3d 513	307A+331	A party has a duty to preserve, protect, and safeguard evidence when it has notice that the evidence is relevant to litigation or should have known that the evidence might be relevant to future litigation.	"Do litigants have a duty to preserve evidence which they know, or reasonably should know, is relevant in the action?"	026812.docx	LEGALEASE-00130358- LEGALEASE-00130359
Wenrich v. Employers Mut. Ins. Companies, 35 Kan. App. 2d 582	307A+749.1	In the absence of an attempt to modify the pretrial order, such order is binding and controls the subsequent course of trial.	Does a pretrial order bind and control the subsequent course of trial?	026871.docx	LEGALEASE-00131209- LEGALEASE-00131210

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Woodward v. Heritage Const. Co., 887 N.E.2d 994	307A+749.1	Although a pretrial order has a binding effect, this does not mean that it must be rigidly and pointlessly adhered to at trial.	Should a pretrial order be rigidly and pointlessly adhered to at a trial?	Pretrial Procedure - Memo # 1752 - C - NE.docx	ROSS-003300671-ROSS-003300672
City of New York v. State, 138 Misc. 2d 768	307A+331	Party cannot be compelled to create new document just to satisfy adversary's disclosure requirements. McKinney's CPLR 3120(a).	Can a party be compelled to create a new document just to satisfy adversary's disclosure requirements?	Pretrial Procedure - Memo # 2051 - C - SHS.docx	ROSS-003301336-ROSS-003301338
Elwood v. Panhandle Concrete Co., 236 Neb. 751	307A+750	Generally, issues delineated in unaltered pretrial order supplant issues raised in pleadings.	"Do issues delineated in unaltered pretrial order, supplant issues raised in pleadings?"	Pretrial Procedure - Memo # 2063- C - KG.docx	LEGALEASE-00020949-LEGALEASE-00020950
Bell Atl.-Pennsylvania v. Pennsylvania Pub. Util. Comm'n, 763 A.2d 440	371+2001	"Tax" is a measure which generates revenue for support of government, based upon judicial authority.	Is tax a measure which generates revenue based on judicial authority?	044581.docx	LEGALEASE-00131013-LEGALEASE-00131015
Bill DeLuca Enterprises v. Comm'r of Revenue, 431 Mass. 314	371+2001	Essence of any system of taxation is that it should produce revenue ascertainable, and payable to the government, at regular intervals, since only by such a system is it practicable to produce a regular flow of income and apply methods of accounting, assessment, and collection capable of practical operation.	"Does the system of taxation produce revenue ascertainable, and payable to the government?"	Taxation - Memo # 108 - C - SU.docx	ROSS-003301676-ROSS-003301678
Nw. Energetic Servs. v. California Franchise Tax Bd., 159 Cal. App. 4th 841	371+2002	The essence of a "tax" is that it raises revenue for general governmental purposes and is compulsory rather than imposed in response to a voluntary decision to seek benefits; a "fee," on the other hand, funds a regulatory program or compensates for services or benefits provided by the government.	Why are taxes ordinarily imposed?	044716.docx	LEGALEASE-00130837-LEGALEASE-00130838
Mcleod v. Columbia Cty., 278 Ga. 242	371+2001	A charge is generally not a "tax" if its object and purpose is to provide compensation for services rendered.	Is charge a tax if the object and purpose of such charge is to provide compensation for services rendered?	Taxation - Memo # 190 - C - SS.docx	ROSS-003304035-ROSS-003304036
Conlen Grain & Mercantile v. Texas Grain Sorghum Producers Bd., 519 S.W.2d 620	371+2001	"Tax" is burden or charge imposed by legislative power of state upon persons or property to raise money for public purposes. Vernon's Ann.Civ.St. art. 55c.	On whom is a tax imposed upon?	044910.docx	LEGALEASE-00130528-LEGALEASE-00130529
Stevenson v. New York State Tax Appeals Tribunal, 106 A.D.3d 1146	371+2001	"Taxes" are public burdens imposed generally for governmental purposes benefiting the entire community.	Are taxes public burdens imposed to benefit the entire community?	045250.docx	LEGALEASE-00130601-LEGALEASE-00130603
Empress Casino Joliet Corp. v. Blagojevich, 674 F. Supp. 2d 993	371+2001	An assessment is a tax if it is for revenue raising purposes, regardless of whether the proceeds go to a general fund or are devoted to a more specialized purpose.	Is an assessment a tax if it is for revenue raising purpose?	046102.docx	LEGALEASE-00130737-LEGALEASE-00130739
Storedahl Properties v. Clark Cty., 143 Wash. App. 489	371+2001	Charges imposed for purposes other than raising money to fund the public treasury, such as for regulating activities, are not taxes and are not subject to constitutional taxation constraints. West's RCWA Const. Art. 7, S 1.	What charges are not taxes?	046136.docx	LEGALEASE-00130745-LEGALEASE-00130746
Nishitani v. United States, 42 Fed. Cl. 733	34+3(1)	Judicial review is only appropriate in military matters where the military's discretion is limited and Congress has established tests and standards against which the court can measure the military's conduct.	When is judicial review of military decisions appropriate?	Armed Services - Memo 71 - RK.docx	ROSS-003286617-ROSS-003286618

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Sun-Diamond Growers of California, 526 U.S. 398	63+1(1)	To convict under federal bribery statute, there must be a quid pro quo, a specific intent to give or receive something of value in exchange for an official act, while illegal gratuity may constitute merely a reward for some future act that public official will take and may already have determined to take, or for a past act that he has already taken. 18 U.S.C.A. S 201(b)(1, 2), (c).	"What is the definition of ""quid pro quo"" for the purpose of bribery?"	Bribery - Memo #88 - C-JL.docx	ROSS-003287219-ROSS-003287221
State v. Hinkle, 229 N.W.2d 744	67+2	"Public offense" as used in the burglary statute encompasses a wide variety of specific crimes to which the State attaches a penalty for the infraction thereof and is not limited to larceny. I.C.A. S 708.1.	Does burglary require a public offense?	Burglary - Memo 107 - JS.docx	ROSS-003290557-ROSS-003290558
City of Mishawaka v. Squadroni, 486 N.E.2d 1088	307A+749.1	Pretrial order should be liberally construed in order to ensure trial of every lawsuit on its merits.	Should a pretrial order be liberally construed in order to ensure trial of every lawsuit on its merits?	Pretrial Procedure - Memo # 2120 - C - ES.docx	ROSS-003301581-ROSS-003301582
Campbell v. Nako Corp., 198 Kan. 421	307A+749.1	A pretrial order does not preclude review of trial court's ruling on question of law.	Does a pretrial order preclude review of the trial court's ruling on a question of law?	Pretrial Procedure - Memo # 2237 - C - SKG.docx	ROSS-003286536
Nelson v. Allstate Ins. Co., 753 A.2d 1001	307A+749.1	The rule governing pretrial orders contemplates that fair disclosure will be made to remove cases from the realm of surprise, and both parties generally are bound by the pretrial order. Civil Rule 16(g).	Are parties bound by a pre-trial order?	Pretrial Procedure - Memo # 2261 - C - SN.docx	ROSS-003287449-ROSS-003287450
Miller v. Reddin, 422 F.2d 1264	170A+1713.1	A voluntary dismissal by plaintiff automatically terminates action upon filing of dismissal with clerk; no order of court is required. Fed.Rules Civ.Proc. rule 41(a) (1), 28 U.S.C.A.	Does a voluntary dismissal terminate the action when the notice of the plaintiff's intent to dismiss is filed with the clerk?	027842.docx	LEGALEASE-00132076-LEGALEASE-00132077
Farrell By & Through Farrell v. Dome Labs., a Div. of Miles Labs.,Inc., 650 P.2d 380	30+4792	Fact that order of voluntary dismissal without prejudice was previously affirmed on appeal did not prevent trial court from vacating such order pursuant to defendants' motion for relief from final order, and furthermore none of conditions added by amended judgment were reviewed in prior appeal. Rules Civ.Proc., Rules 41(a)(2), 60(b).	Is a voluntary dismissal without prejudice sufficiently final to support a motion filed pursuant to Rule 60(b)?	027851.docx	LEGALEASE-00132198-LEGALEASE-00132199
Griffin v. Dep't of Local Gov't Fin., 765 N.E.2d 716	371+2001	The nature of a tax must be determined by its operation and incidence, rather than by its title or designation made by the legislature.	Is the nature of a tax determined by its designation made by the legislature?	Taxation - Memo # 127 - C - CK.docx	ROSS-003315356-ROSS-003315357
In re Opinion of the Justices, 133 Me. 525	371+2002	A "tax" is an enforced contribution to raise revenue and not to reimburse state for special services rendered to a given party.	Is tax an enforced contribution to raise revenue?	044822.docx	LEGALEASE-00131553-LEGALEASE-00131554
State, ex rel. Emrick, v. Wasson, 62 Ohio App. 3d 498	268+405	Although "tax" and "assessment" are similar concepts in that they are government-imposed financial burdens for public or quasi-public purpose, functional distinction exists between the two; tax is burden levied on citizens for general operation of government, and assessment is narrower burden levied on specific property owners to cover costs of benefits bestowed on property by public improvements.	"Is ""tax"" a burden imposed by a government?"	Taxation - Memo # 225 - C - KI.docx	ROSS-003304052-ROSS-003304054
Vournas v. Montgomery Cty., 53 Md. App. 243	371+2001	Where primary objective of tax is raising revenue, it is revenue measure, and amount of tax is not reviewable by the courts.	"Is the amount of the tax reviewable by the courts, where the primary objective of a tax is to raise revenue?"	Taxation - Memo # 310 - C - CK.docx	ROSS-003328968-ROSS-003328969

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Cty. of Orange, 262 F.3d 1014	268+485(1)	Although California's Mello-Roos tax is not an "ad valorem tax," that is, a tax imposed on property according to its value, it is billed to the properties within the community facilities districts on the regular ad valorem property tax bills sent to the property owners. West's Ann.Cal.Gov.Code SS 53311-53368.3.	What is an ad valorem tax?	045443.docx	LEGALEASE-00131929- LEGALEASE-00131930
Dinkel v. Graves Truck Line, 10 Kan. App. 2d 604	413+1	Workmen's Compensation Act is complete and exclusive within itself and provides procedures on each phase of a claimant's right to compensation. K.S.A. 44-501 et seq.	Is the Workmens Compensation Act complete and exclusive within itself?	047754.docx	LEGALEASE-00131901- LEGALEASE-00131902
Hartford Acc. & Indem. Co. v. Rigdon, 418 F. Supp. 540	413+1164	Action under workmen's compensation laws is purely statutory and the rights and remedies granted by Alabama Workmen's Compensation Act are exclusive in those cases coming within influence of that Act. Code of Ala., Tit. 26, S 312.	"Do workmens compensation statutes create rights, remedies and procedures all their own?"	047841.docx	LEGALEASE-00131791- LEGALEASE-00131792
State v. Campbell Cty. Sch. Dist., 2001 WY 19	63+1(1)	Mere offer or solicitation of a bribe is violative of bribery statute and a concert of action is unnecessary. K.S.A. 21-3901.	Is the mere offer or solicitation of a bribe violative of the bribery statute?	011340.docx	LEGALEASE-00133312- LEGALEASE-00133313
United States v. Verrusio, 762 F.3d 1	63+1(2)	The criminal anti-gratuity provision has no requirement that the gift to a federal official actually influence the performance of an official act; what matters is what the gift was contemplated for at the time it was given. 18 U.S.C.A. S 201(c)(1)(B).	Does the criminal anti-gratuity provision require that the payment to the official actually influence the performance of an official act?	Bribery - Memo #291 - C - LB.docx	ROSS-003300649-ROSS- 003300650
Roby v. Day, 635 P.2d 611	289+558	Each partner is possessed of a joint interest in the whole but does not own any separate part of the partnership property; partner's rights in a partnership is an intangible property right, a chose in action, and a right to receive money shown to be due on liquidation and accounting.	Is a partners right in partnership property an intangible one?	022102.docx	LEGALEASE-00133503- LEGALEASE-00133504
Stone and Michaud Ins. v. Bank Five for Sav., 785 F.Supp. 1065	226H+41	Under New Hampshire law, same legal rules that govern partnerships also govern joint ventures, as parties in joint venture stand in same relationship to each other as partners in partnership.	Do parties in a joint venture stand in the same relationship to each other as the partners in a partnership?	022112.docx	LEGALEASE-00133513- LEGALEASE-00133514
Beach v. Anderson, 417 N.W.2d 709	289+529	Real estate owned by partnership is considered personalty, and once partnership acquires realty with partnership funds and for partnership purposes, it then becomes personalty for all purposes. M.S.A. S 323.25.	Is real estate owned by a partnership treated as a personalty?	022162.docx	LEGALEASE-00133564- LEGALEASE-00133565
Shanks v. Klein, 104 U.S. 18	289+715	Real estate purchased with partnership funds for partnership purposes, though the title be taken in the individual name of one or both partners, is first subject to the partnership debts, and is then to be distributed among the copartners according to their respective rights.	Does partnership real estate have to be applied to the satisfaction of the partnership debts?	022167.docx	LEGALEASE-00133568- LEGALEASE-00133569
McBee v. Williamson, 96 Ga. App. 859	302+8(17)	Mere allegation that certain facts constitute gross, rather than ordinary, negligence is a conclusion; but in action against driver for injuries sustained by occupant, plaintiff must state clearly whether he relies on ordinary negligence or gross negligence.	Is a mere allegation of negligence a conclusion?	Pleading - Memo 288 - RMM.docx	ROSS-003286905-ROSS- 003286906
Cotton v. Ostroski, 250 Neb. 911	307A+749.1	Purpose of pretrial conference is to simplify issues, to amend pleadings when necessary, and to avoid unnecessary proof of facts at trial; to that end, litigants must adhere to spirit of procedure and are bound by pretrial order to which no exception has been taken.	What is the clear purpose of pretrial conference?	027087.docx	LEGALEASE-00132822- LEGALEASE-00132823

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State ex rel. State Comp. Mut. Ins. Fund v. Berg, 279 Mont. 161	307A+750	Failure to raise issue or theory in pretrial order may result in waiver of that issue or theory. Rules Civ.Proc., Rule 16(e).	Will failure to raise issue or theory in pretrial order result in waiver of that issue or theory?	Pretrial Procedure - Memo # 1966 - C - MS.docx	ROSS-003300765-ROSS-003300766
Polansky v. Berenji, 393 S.W.3d 362	307A+506.1	Although the nonsuit immediately renders the merits of the case moot, the trial court need not immediately dismiss the suit when notice of nonsuit is filed. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	Does a nonsuit render the merits of a plaintiff's claims moot?	Pretrial Procedure - Memo # 2294 - C - SK.docx	LEGALEASE-00022834-LEGALEASE-00022835
Applied Bank v. Wenzlick, 344 S.W.3d 229	307A+517.1	Once the case is dismissed in accordance with voluntary dismissal rule, any further action by the trial court is viewed as a nullity. V.A.M.R. 67.02(a)(2).	"Once the case is dismissed in accordance with voluntary dismissal rule, is any further action by the trial court viewed as a nullity?"	028053.docx	LEGALEASE-00133391-LEGALEASE-00133392
Rabello v. Alonso, 927 So. 2d 45	307A+520	Trial court lacked jurisdiction to set aside a stipulated voluntary dismissal and reinstate the dismissed action nearly two years after signing an order of dismissal; dismissal deprived trial court of jurisdiction to consider a simple request for reinstatement, and one-year time limit for bringing a motion for relief from judgment based on fraud or mistake had expired. West's F.S.A. RCP Rule 1.540.	"Once a stipulated voluntary dismissal is taken, does the court lose jurisdiction over the action?"	Pretrial Procedure - Memo # 2551 - C - NS.docx	ROSS-003327141-ROSS-003327142
Morgan v. Evans, 39 Mass. App. Ct. 465	307A+517.1	In dismissing action pursuant to rule governing voluntary dismissals by court order, court may grant dismissal without prejudice or may require that the dismissal be with prejudice. Rules Civ.Proc., Rule 41(a)(2), 43A, 43B M.G.L.A.	Can a court grant dismissal without prejudice or may require that the dismissal be with prejudice?	Pretrial Procedure - Memo # 2559 - C - NS.docx	ROSS-003315234-ROSS-003315235
Matter of R.G., Jr., 865 S.W.2d 504	307A+517.1	Nonsuit or voluntary dismissal of cause of action is effective at time it is filed; oral nonsuit is effective at time of nonsuit and signing of order granting it is purely ministerial. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	Is an oral nonsuit effective at the time of nonsuit and a signing of an order granting it is purely ministerial?	028218.docx	LEGALEASE-00133279-LEGALEASE-00133280
Rehman v. ECC Int'l Corp., 698 So. 2d 921	307A+517.1	Although voluntary dismissal of action is without prejudice to bringing of new action, it does preclude revival of original action.	Does voluntary dismissal of action preclude revival of original action?	028562.docx	LEGALEASE-00132667-LEGALEASE-00132668
Owens-Corning Fiberglas Corp. v. Fibreboard Corp., 95 Md. App. 345	307A+517.1	Motion for voluntary dismissal may be granted with or without prejudice in court's discretion. Md.Rule 2-506.	Can a motion for voluntary dismissal be granted with or without prejudice in a court's discretion?	Pretrial Procedure - Memo # 2878 - C - RY.docx	ROSS-003301112-ROSS-003301113
Kenney v. Rockingham Sch. Dist., 123 Vt. 344	413+1	The nature, conditions, obligations and incidents of employment all have a bearing on proper determination of a given workmen's compensation case.	What has bearing on a proper determination of a given workmens compensation case?	047885.docx	LEGALEASE-00132974-LEGALEASE-00132975
Kenney v. Rockingham Sch. Dist., 123 Vt. 344	413+1	Vermont does not stand outside all development in workmen's compensation law and, when, justifiable, its concepts are not to be denied development and expansion.	"When justifiable, should the concepts of a states workmens compensation statute be denied development and expansion?"	047887.docx	LEGALEASE-00132978-LEGALEASE-00132979
State ex rel. Morgan v. Indus. Acc. Bd., 130 Mont. 272	413+1	Each compensation case must be decided upon its own fact features in the application of the law. R.C.M.1947, S 92-101 et seq.	Should each compensation case be decided upon its own fact features in the application of the law?	047903.docx	LEGALEASE-00133194-LEGALEASE-00133195
Granahan v. Celanese Corp. of Am., Plastics Div., 3 N.J. 187	413+1	A cause of action in a compensation case is predicated on an accident arising out of and in course of employment and not on the injuries incident thereto.	What does a cause of action in a compensation case predicated upon?	Workers Compensation - Memo #231 ANC.docx	ROSS-003288604-ROSS-003288605

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Olson v. Trinity Lodge No. 282, A. F. & A. M., 226 Minn. 141	413+608	The phrase "arising out of employment" within meaning of compensation act, expresses factor of origin, source, or contribution rather than cause in sense of being proximate or direct.	Are workers compensation acts sui generis?	047937.docx	LEGALEASE-00133178- LEGALEASE-00133179
Buckingham Estates Homeowners Ass'n v. Metcalf, 207 So. 3d 966	307A+517.1	Generally, a voluntary dismissal terminates a trial court's jurisdiction over a matter. Fla. R. Civ. P. 1.420(a)(1).	"Generally, does a voluntary dismissal terminate a trial court's jurisdiction over a matter?"	028293.docx	LEGALEASE-00133656- LEGALEASE-00133657
Ex parte Spurlock, 66 F. Supp. 997	34+3(1)	Under our form of government, the military, even in time of war, is subordinate to the civil power not superior to it.	"Is the military, even in time of war, subordinate to the civil power?"	008383.docx	LEGALEASE-00133749- LEGALEASE-00133751
H.D. Arnaiz, Ltd. v. Cty. of San Joaquin, 96 Cal. App. 4th 1357	307A+517.1	A voluntary dismissal by written request to the clerk is not a final judgment as no judgment, final or otherwise, is necessary to the dismissal. West's Ann.Cal.C.C.P. S 581(b)(1).	Is a voluntary dismissal by written request to the clerk a final judgment as no judgment?	028659.docx	LEGALEASE-00133854- LEGALEASE-00133855
In re Singh, 434 B.R. 298	308+117(1)	Under New York law, the authority of an agent who signs a contract for the sale of land must be authorized in writing.	Should the authority of an agent who signs or executes a contract of sale be stated in writing?	Principal and Agent - Memo 86 - KC.docx	ROSS-003290914-ROSS-003290915
Farmer v. State, 341 Ark. 220	352H+190	Sexual gratification, like intent, is rarely capable of proof by direct evidence and must usually be inferred from the circumstances. A.C.A. SS 5-14-101(1)(B), 5-14-103.	Can sexual gratification be inferred from the circumstances?	043038.docx	LEGALEASE-00133864- LEGALEASE-00133865
Agric. Commodities Auth. v. Balkcom, 215 Ga. 107	371+2001	A "tax" is a rate or sum of money assessed on person, property, etc., of citizen.	Is tax a rate or sum of money assessed on person and property of citizen?	045108.docx	LEGALEASE-00133906- LEGALEASE-00133907
Sablosky v. Messner, 372 Pa. 47	371+2121	Taxation is a practical matter and legislation upon the subject will not be declared invalid because some inequities inevitably result.	Can a legislation upon the subject of taxation be declared invalid?	Taxation - Memo # 396 - C - KBM.docx	ROSS-003290957-ROSS-003290958
Roth v. United States, 378 F.3d 1371	34+7(1)	Documents that are sent to a selection board in connection with proposed promotion must be substantially complete, and must fairly portray the officer's record.	Is a substantially complete and fair record a necessary requirement for proper consideration by a selection board?	008434.docx	LEGALEASE-00133934- LEGALEASE-00133935
Maier v. Orr, 754 F.2d 973	34+18	No one has an individual right, constitutional or otherwise, to enlist in armed forces, composition of those forces being within purview of Congress and the military.	Does a servicemen have the right to enlist or reenlist in the armed forces?	008470.docx	LEGALEASE-00134198- LEGALEASE-00134199
Sani-Serv Div. of Burger Chef Sys. v. S. Bank of W. Palm Beach	95+53	Once legal consideration appears, its adequacy is not subject to judicial inquiry except under unusual circumstances.	"Once a legal consideration appears, is its adequacy a subject for judicial inquiry?"	Bills and Notes - Memo 261- VP.docx	ROSS-003289100-ROSS-003289101
Holsomback v. Akins, 134 Ga. App. 543	8.30E+76	A check is not revoked by operation of law because it was presented to drawee bank within ten days after drawer's death. Code, S 109A-4-405(2).	Can a check be revoked by operation of law after the death of drawer?	010221.docx	LEGALEASE-00133962- LEGALEASE-00133963
Falco v. Bates, 30 Ill. App. 3d 570	8.30E+76	In absence of consideration passing from payee to drawer of check to support drawer's liability on the check, timely filing of stop payment order by drawer operated to extinguish any liability of drawer to payee.	Does timely filing of a stop payment order by the drawer extinguish his liability to payee?	010223.docx	LEGALEASE-00133966- LEGALEASE-00133967

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Hawkins, 37 F. Supp. 3d 964	63+14	In its jury instruction, court appropriately defined term "corruptly" in prosecution under federal program bribery statute by using definition provided in Seventh Circuit pattern instructions, under which "(a) person acts corruptly when that person acts with the understanding that something of value is to be offered or given to reward or influence him in connection with his official duties," while rejecting defendants' alternate instructions, each of which involved statement that person acts "corruptly" if he "acts with the purpose of wrongfully influencing the business or transactions of" the government agency, since statute was not focused on whether defendants took action after receiving bribe, but rather defendants' knowledge that payment was offered as bribe. 18 U.S.C.A. S 666(a)(1)(B).	Does the federal bribery statute extend to bribes offered to state and local officials employed by agencies receiving federal funds?	011262.docx	LEGALEASE-00134306- LEGALEASE-00134307
Northpark Assocs. No. 2, Ltd. v. Homart Dev. Co., 262 Ga. 138	200+80	Governing authority can acquire fee simple title to county road only through condemnation or express grant in deed or other instrument.	How can a governing authority acquire fee-simple title to a county road?	Highways -Memo 102- DB.docx	ROSS-003290474-ROSS- 003290475
Sivigliano v. Harrah's N. Kansas City Corp., 188 S.W.3d 46	302+370	The purpose of fact-pleading is to present, define, and isolate the controverted issues so as to advise the trial court and the parties of the issues to be tried and to expedite the trial of a cause on the merits; the pleadings limit and define the issues of the case. V.A.M.R. 55.05.	What is the purpose of fact pleading?	023281.docx	LEGALEASE-00134685- LEGALEASE-00134686
Arizona State Highway Dep't v. Bechtold, 105 Ariz. 125	307A+750	Purpose of pretrial order is to simplify issues and shorten trial time, but such orders are not absolute and do not completely jell issues in action.	Does a pretrial order not completely jell issues in an action?	027664.docx	LEGALEASE-00134573- LEGALEASE-00134574
Perez v. Miami-Dade Cty., 297 F.3d 1255	170A+1686	In deciding whether to grant or deny a motion to withdraw or amend admissions, court should consider whether the withdrawal will subserve the presentation of the merits, and determine whether the withdrawal will prejudice the party who obtained the admissions in its presentation of the case; a district court abuses its discretion in denying a motion to withdraw or amend admissions when it applies some other criterion beyond foregoing two-part test or grossly misapplies the two-part test in making its ruling. Fed.Rules Civ.Proc. Rule 36(b), 28 U.S.C.A.	Should the party seeking to have the admissions enforced must show that it will have difficulty proving its case as a result of the withdrawal of the admissions?	028944.docx	LEGALEASE-00134066- LEGALEASE-00134067
Jahn v. Brickey, 168 Cal. App. 3d 399	307A+486	Responding party must obtain leave of court before amending admissions. West's Ann.Cal.C.C.P. S 2033.	Must a responding party obtain a leave of court before amending admissions?	028986.docx	LEGALEASE-00134738- LEGALEASE-00134739
Standard Sav. Ass'n v. Cromwell, 714 S.W.2d 49	307A+486	Court has discretion to shorten time provided for notice of hearing on motion to withdraw admission of fact. Vernon's Ann.Texas Rules Civ.Proc., Rules 21, 169.	Does a court have discretion to shorten a time provided for notice of hearing on motion to withdraw admission of fact?	029099.docx	LEGALEASE-00134625- LEGALEASE-00134626
Schmal v. Minnesota Mut. Life Ins. Co., 432 N.W.2d 695	307A+483	Admissions were to be deemed admitted after plaintiffs failed to file answers to requests for admissions. Rules Civ.Proc., Rules 127, 128.	Are admissions to be deemed admitted after plaintiffs fail to file answers to requests for admissions?	Pretrial Procedure - Memo # 3502 - C - ES.docx	ROSS-003331251-ROSS- 003331252
Navelski v. Int'l Paper Co., 244 F. Supp. 3d 1275	386+10	Under Florida law, "trespass" to real property is an injury to or use of the land of another, by one who has no right or authority.	Can trespass to real property be committed by a person who has no right or authority?	047353.docx	LEGALEASE-00134842- LEGALEASE-00134843

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Jacque v. Steenberg Homes, 209 Wis. 2d 605	386+56	Nominal damages can support punitive damage award in case of intentional trespass to land, as both individual and society have significant interests in deterring intentional trespass to land, regardless of lack of resulting measurable harm.	"Can a defendant be punished by a large damage award, despite the lack of measurable harm or a minimal actual harm in cases of trespass?"	047403.docx	LEGALEASE-00134806-LEGALEASE-00134807
Brown v. ITT Consumer Fin. Corp., 211 F.3d 1217	25T+143	Party cannot avoid arbitration simply because the arbitration clause uses general, inclusive language, rather than listing every possible specific claim.	Can a party to an arbitration agreement avoid arbitration?	007543.docx	LEGALEASE-00135801-LEGALEASE-00135802
Rojas v. TK Commc'ns, 87 F.3d 745	25T+146	Arbitration clause in employment contract providing for arbitration of claims contesting validity of agreement, enforcement of its financial terms, or other disputes was sufficiently broad to encompass female employee's Title VII claims. Civil Rights Act of 1964, S 701 et seq., as amended, 42 U.S.C.A. S 2000e et seq.	"Do courts recommend arbitration when arbitration agreement contains the language requiring any action contesting the validity of the Agreement, the enforcement of its financial terms, or any other disputes, submitted to arbitration?"	Alternative Dispute Resolution - Memo 627 - SB.docx	ROSS-003305016-ROSS-003305017
McGuire, Cornwell & Blakey v. Grider, 771 F. Supp. 319	25T+149	As a general rule, where arbitrator named in arbitration agreement cannot or will not arbitrate dispute, court does not void agreement but instead appoints different arbitrator. 9 U.S.C.A. S 5.	Does the court make an arbitration agreement void if an arbitrator named in the arbitration agreement cannot or will not arbitrate a dispute?	007579.docx	LEGALEASE-00135317-LEGALEASE-00135319
State v. Greer, 238 N.C. 325	63+1(1)	"Bribery" is voluntary offering, giving, receiving or soliciting of any sum of money, present or thing of value with corrupt intent to influence recipient's action as a public officer or official, or person whose ordinary profession or business relates to administration of public affairs, whether in legislative, executive, or judicial departments of government in performance of any official duty required of him, but bribe must be intended to influence recipient in discharge of a legal duty, and not a mere moral duty. G.S. S 14-218.	Should a bribe be intended to influence the recipient in the discharge of a legal duty?	011549.docx	LEGALEASE-00135367-LEGALEASE-00135368
United States v. Parlavecchio, 903 F. Supp. 788	36+2	Terms "extortion," "bribery," and "arson" contained in Travel Act are to be read more broadly than their strict common law definitions. 18 U.S.C.A. S 1952(b).	"Does the term ""bribery"" in the Travel Act have the same meaning with ""bribery"" in the common law?"	011569.docx	LEGALEASE-00135258-LEGALEASE-00135259
Mash v. State, 90 Ga. App. 322	67+4	The word "storehouse", within statute defining burglary as the breaking and entering into storehouse, means place where goods are stored or kept for sale at wholesale or retail, such as shop or store. Code, S 26-2401.	Is a storehouse subject to the burglary statute?	012631.docx	LEGALEASE-00135796-LEGALEASE-00135797
People v. Alvarado, 87 Cal. App. 4th 178	350H+96	For purposes of the One Strike law, which mandates indeterminate life sentences of 15 or 25 years to life for specified sex offenses that are committed under one or more "aggravating" circumstances, including commission of a rape during commission of a burglary, phrase "during the commission of a burglary" refers to that period of time between the burglar's initial entry with the requisite intent and the burglar's escape to a place of temporary safety. West's Ann.Cal.Penal Code S 667.61(e)(2).	Is an escape part of the burglary?	012639.docx	LEGALEASE-00135849-LEGALEASE-00135851
Kennedy v. State Indus. Comm'n, 1937 OK 526	67+16	Possession of burglarious implements or tools with a guilty intent may be joint as well as several, and where guilty intent of several is manifested by their joint act, it becomes a joint offense. R.R.S.1943, S 28-534.	Can there be joint possession of burglars tools?	Burglary - Memo 127 - JS.docx	ROSS-003290182-ROSS-003290184

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Edwards, 103 Ariz. 487	67+9(0.5)	Statute making burglary by mechanical means illegal and specifying three distinct classes of mechanical means for committing burglary, (1) by use of explosives, (2) use of burning or melting force, (3) use of any mechanical device or contrivance, was not ambiguous and ejusdem generis rule of construction would not be applied. A.R.S. S 13-303.	Does use of explosives constitute burglary?	Burglary - Memo 130 - JS.docx	ROSS-003290438-ROSS-003290440
People v. Mire, 173 Mich. 357	350H+1486	The punishment, imprisonment for not less than 15 years nor more than 30 years, prescribed by Pub.Acts 1907, No. 64, for one who with intent to commit crime breaks and enters a building, and for purpose of committing any crime uses a high explosive, is not cruel and unusual.	What is the punishment for burglary with use of explosives?	Burglary - Memo 132 - JS.docx	ROSS-003289285-ROSS-003289287
In re Vidal, 234 B.R. 114	289+1131	Under New Mexico law, partnership agreement governs relationship between general and limited partners. NMSA 1978, SS 54-2-1 to 54-2-63.	What governs the relationship between general partners and limited partners?	Partnership - Memo 322 - SNP.docx	ROSS-003291631-ROSS-003291632
Fromm v. Bd. of Directors of Police & Firemen's Ret. Sys., 81 N.J. Super. 138	296+2	One of the fundamental purposes of pensioning civil servants is to secure good behavior and maintenance of reasonable standards of discipline during service.	Why should civil servants be pensioned?	022782.docx	LEGALEASE-00135739-LEGALEASE-00135740
Peachtree Apartments v. Pallo, 317 S.W.3d 189	307A+517.1	Once a case is voluntarily dismissed, the court loses all jurisdiction over it, and may take no further action.	"Once a case is voluntarily dismissed, does the court lose all jurisdiction over it, and may take no further action?"	Pretrial Procedure - Memo # 2766 - C - DA.docx	ROSS-003305105-ROSS-003305106
Madison Assocs. v. Bass, 158 Ill. App. 3d 526	388+26	Substitution of attorneys after commencement of trial does not constitute good cause for granting continuance.	Is the substitution of attorneys after the commencement of trial a good cause for granting continuance?	Pretrial Procedure - Memo # 3272 - C - KG.docx	ROSS-003317856-ROSS-003317857
Brown v. Rowe Chevrolet-Buick, 86 N.C. App. 222	307A+716	Generally, withdrawal of counsel on eve of trial is not ipso facto grounds for continuance.	Is the withdrawal of counsel on eve of trial not ipso facto grounds for continuance?	Pretrial Procedure - Memo # 3297 - C - SU.docx	LEGALEASE-00025213-LEGALEASE-00025214
Martin v. Wyatt, 243 Ga. App. 31	307A+716	Continuances because of the absence of counsel are not favored, and a strict compliance with the law is required, particularly since the matter rests within the sound discretion of the trial judge. O.C.G.A. S 9-10-155.	Is continuance on ground of counsel's illness favored?	029373.docx	LEGALEASE-00135401-LEGALEASE-00135402
Waites v. Sondock, 561 S.W.2d 772	307A+712	Legislative continuance is mandatory except in those cases in which party opposing continuance alleges that substantial existing right will be defeated or abridged by delay; in cases of this type, trial court has duty to conduct hearing on such allegations, and if allegations are shown to be meritorious court should deny continuance. Vernon's Ann.Civ.St. art. 2168a.	Is a legislative continuance mandatory?	029374.docx	LEGALEASE-00135419-LEGALEASE-00135420
Allen v. State ex rel. Ernest N. Morial--New Orleans Exhibition Hall Auth., 814 So. 2d 644	110+593	Illness of counsel, where there is but one, or of the leading counsel, where there is more than one, is sufficient ground for the continuance of a cause, especially where the sickness is so sudden that another cannot, under the circumstances, do justice to the cause.	Is illness of counsel a sufficient ground for the continuance of a cause?	029634.docx	LEGALEASE-00135138-LEGALEASE-00135139
Enter. Recovery Sys. v. Salmeron, 401 Ill. App. 3d 65	307A+483	The failure to answer requests for admission means that all factual statements in the requests are deemed to be admitted.	Does the failure to answer requests for admission mean that all factual statements in the requests are deemed to be admitted?	Pretrial Procedure - Memo # 3637 - C - CK.docx	ROSS-003290512-ROSS-003290513

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Sewell, 472 S.W.3d 449	307A+483	Deemed admissions were never intended to be a trap in which a party admits he has no cause of action or defense.	Are deemed admissions intended to be a trap in which a party admits he has no cause of action or defense?	Pretrial Procedure - Memo # 3644 - C - AP.docx	ROSS-003290514-ROSS-003290515
Novak v. Novak, 2007 S.D. 108	307A+485	Whether an award of attorney fees is warranted, for the failure to admit facts set forth in a request for admissions which are later established, is left to the sound discretion of the circuit court, which has broad discretion with regard to sanctions imposed. SDCL S 15-6-37(c)(2).	Does a court have broad discretion to determine amount of a reasonable attorney fee on motion for costs of proof?	030080.docx	LEGALEASE-00135069-LEGALEASE-00135070
Osceola Inns v. State Highway Dept, 133 Ga. App. 736	307A+483	In absence of denials of request for admissions being before court, matters contained in request must be treated as admissions.	"In absence of denials of request for admissions being before court, must matters contained in a request be treated as admissions?"	030110.docx	LEGALEASE-00135901-LEGALEASE-00135902
W. Morgan-E. Lawrence Water & Sewer Auth. v. 3M Co., 208 F. Supp. 3d 1227	386+10	Under Alabama law, an indirect trespass occurs where the trespasser releases a foreign polluting matter beyond the boundaries of his property, knowing to a substantial certainty that it will invade the property.	When does indirect trespass occur?	047370.docx	LEGALEASE-00135250-LEGALEASE-00135251
New York State Elec. & Gas Corp. v. Cty. of Chemung, 137 A.D.3d 1550	386+11	The essence of trespass is injury to the right of possession, and such trespass may occur under the surface of the ground; a person need not have title to the property but must simply have sufficient property rights to maintain an action for trespass.	Can a person not having the title to property maintain a trespass action?	047378.docx	LEGALEASE-00135268-LEGALEASE-00135269
United States v. Anderson, 509 F.2d	63+1(1)	Donor may be convicted of giving a bribe despite the fact that the recipient had no intention of altering his official activities, or even lacked the power to do so. 18 U.S.C.A. S 201(a, b).	"In a bribery case, should the conviction of the donor and donee always be consistent?"	011303.docx	LEGALEASE-00136739-LEGALEASE-00136740
Blue Tree Hotels Inv. (Canada), Ltd. v. Starwood Hotels & Resorts Worldwide, 369 F.3d 212	63+1(1)	Commercial bribery cannot be committed unilaterally by an alleged bribe receiver: one cannot be guilty of receiving a commercial bribe unless someone else is guilty of paying it.	Can commercial bribery be committed unilaterally?	Bribery - Memo #428 - C - LB.docx	ROSS-003291586-ROSS-003291587
State v. Knight, 140 Ohio App. 3d 797	63+1(1)	A police officer's duty, for purposes of a prosecution for bribery, may arise from usage or custom.	Where do a police officers duties arise from for purposes of a prosecution for bribery?	011701.docx	LEGALEASE-00136632-LEGALEASE-00136633
State v. Walker, 130 S.W.3d 18	63+1(1)	Crime of bribery is complete when offer is made; it is not element of offense that act to be influenced was actually performed or accomplished. V.A.M.S. S 576.010.	Is the performance of the act being influenced an element of bribery?	011873.docx	LEGALEASE-00136123-LEGALEASE-00136124
Upton v. State, 166 Ga. App. 541	63+1(1)	Where an act is entirely outside of official functions of officer to whom bribe is offered, offense is not bribery. O.C.G.A. S 16-10-2.	Can a public officer be bribed where the induced act is entirely outside of the official functions of him?	011875.docx	LEGALEASE-00136158-LEGALEASE-00136159

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Railey v. State, 58 Tex. Crim. 1	67+2	Pen.Code 1895, art. 838 (Vernon's Ann.P.C. art. 1389), provides that burglary is constituted by the entrance of a house by force, threats, or fraud, with intent to commit a felony or theft. Article 839 (1390) provides that one is guilty of burglary who, with intent to commit a felony or theft, by breaking enters the house in the daytime. Article 841 (1393) provides that the entry may consist of the entry of any part of the body, or that the offense may be constituted by the discharge of firearms into the house with the intent to injure the person therein. Held, that article 841 (1393) is but an addition to articles 838 and 839 (1389, 1390), and under the three articles, burglary may consist of entering a house by force, etc., or in entering a house and remaining therein with the intent to commit a felony, or by the discharge of firearms into a house with the intent to injure the person therein, and the intention need not be to commit a felony.	Does entry in a burglary involve the discharge of firearms?	Burglary - Memo 124 - JS.docx	ROSS-003332001-ROSS-003332003
Wright v. Minneapolis St. Ry. Co., 222 Minn. 105	200+175	A vehicle or pedestrian standing still on a highway can have no right of way over other vehicles or pedestrians, whatever their rights otherwise might be. Minn.St.1941, S 169.01, subd. 45, S 169.21, subd. 2.	Does a pedestrian standing still on the highway have a right of way over other vehicles?	019248.docx	LEGALEASE-00136810-LEGALEASE-00136811
Krug v. Meehan, 109 Cal. App. 2d 274	302+35	An averment of conclusion of law is ordinarily deemed surplusage and will be disregarded in considering sufficiency of pleading.	Will an averment of conclusion of law be disregarded in considering sufficiency of pleading?	Pleading - Memo 309 - RMM.docx	ROSS-003291637-ROSS-003291638
Morgan v. Crowley, 91 Ga. App. 58	302+207	Factitious demands by special demurrer are not favored, and practice of requiring unnecessary elaboration of pleadings by process of such special demurrers should not be encouraged.	Are factitious demands by special demurrer favored?	023340.docx	LEGALEASE-00136530-LEGALEASE-00136531
Bd. of Comm'rs of Tipton Cty. v. Brown, 4 Ind. App. 288	307A+716	The sickness of counsel is not a sufficient ground for continuance, where it is not shown that such sickness prejudiced the client's case.	"Is the sickness of counsel not a sufficient ground for continuance, where it is not shown that such sickness prejudiced the client's case?"	029267.docx	LEGALEASE-00136061-LEGALEASE-00136062
Gilcrease v. Bacarisse, 26,318 (La. App. 2 Cir. 12/7/94)	307A+716	Party is not entitled to indefinite continuances simply because she contends she is unable to secure counsel.	Is a party not entitled to indefinite continuances simply because she contends she is unable to secure counsel?	029452.docx	LEGALEASE-00136436-LEGALEASE-00136437
Willoughby v. Upshur Rural Elec. Co-op. Corp., 562 S.W.2d 33	307A+716	It is within discretion of trial court to grant continuance due to absence of counsel. Rules of Civil Procedure, rule 253.	Is it within discretion of trial court to grant continuance due to absence of counsel?	029460.docx	LEGALEASE-00136463-LEGALEASE-00136464
Travis v. Commercial Union Ins. Co., 569 So. 2d 115	307A+483	Generally, when obligation is based on writing, prima facie proof of obligation requires introducing that writing; jurisprudential exception is that when plaintiff requests admissions of contractual coverage or production of policy, defendant's failure to comply may be construed as supplying missing proof.	"When an obligation is based on writing, does a prima facie proof of obligation require introducing that writing?"	Pretrial Procedure - Memo # 3701 - C - TM.docx	ROSS-003290882-ROSS-003290883
19th St. Baptist Church v. St. Peters Episcopal Church, 190 F.R.D. 345	170A+1292	To "perpetuate the testimony of a witness" means to record, prior to trial and for use at trial, the witness' known testimony in a case where the witness may be unavailable for trial.	Are perpetuation depositions arranged by the litigants when it becomes known that a witness will be unavailable to testify at trial?	030165.docx	LEGALEASE-00137055-LEGALEASE-00137056
Chambers v. Pruitt, 241 S.W.3d 679	307A+483	Requests for admissions must be served and received before a failure to answer will result in deemed admissions.	Should requests for admissions be served and received before a failure to answer will result in deemed admissions?	030171.docx	LEGALEASE-00136996-LEGALEASE-00136997

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Masten v. Gower, 165 S.W.2d 901	307A+483	A party's failure to answer inquiries on adverse party's written request for admission or denial of relevant facts has effect of a "judicial admission", which cannot be controverted upon the trial. Rules of Civil Procedure, rule 169.	"Does a party's failure to answer at all has the effect of a ""judicial admission"", which cannot be controverted upon the trial?"	Pretrial Procedure - Memo # 3951 - C - TM.docx	ROSS-003290587-ROSS-003290588
Delta Disc. Co. v. Fryer, 244 Ark. 489	307A+477.1	Answers to requests for admissions must be verified by responding party rather than by his attorney.	Should answers to requests for admissions be verified by the responding party rather than by his/her attorney?	030262.docx	LEGALEASE-00136922-LEGALEASE-00136923
Prof'l Rodeo Cowboys Ass'n v. Wilch, Smith & Brock, 42 Colo. App. 30	30+3711	Award of costs for expenses incurred by plaintiff in proving facts which defendants have previously failed to admit is within sound discretion of trial court and will not be interfered with on appeal absent abuse of discretion. Rules of Civil Procedure, rule 37(c).	Is awarding of costs within sound discretion of a court?	030300.docx	LEGALEASE-00136894-LEGALEASE-00136895
Ethridge v. Perryman, 363 S.W.2d 696	307A+720	Where it appears from pleadings, application for continuance and testimony that parties have prepared to meet issues tendered by amendment, a continuance on account of the amendment is not necessary. V.A.M.R. Civil Rule 55.53; Section 509.490 RSMo 1959, V.A.M.S.	Does an amendment of an adversary's pleading not entitle a party to a continuance as of course?	030333.docx	LEGALEASE-00136442-LEGALEASE-00136443
Cunningham v. Columbia/St. David's Healthcare Sys., 185 S.W.3d 7	307A+720	An attorney's misplaced reliance on an assistant does not constitute due diligence to obtain discovery sought, as would warrant granting continuance to allow party to make, amend, or supplement its discovery response. Vernon's Ann.Texas Rules Civ.Proc., Rule 193.6(c).	Does an attorney's misplaced reliance on an assistant constitute due diligence to obtain discovery sought?	030430.docx	LEGALEASE-00136185-LEGALEASE-00136186
Dillingham v. I.N.S., 267 F.3d 996	24+397	Because federal authority in immigration matters is plenary, federal classifications differentiating between groups of aliens are subject to relaxed scrutiny.	Are federal classifications distinguishing or differentiating among groups of aliens valid?	007013.docx	LEGALEASE-00137611-LEGALEASE-00137612
Dillingham v. I.N.S., 267 F.3d 996	24+397	Because federal authority in immigration matters is plenary, federal classifications differentiating between groups of aliens are subject to relaxed scrutiny.	Is federal authority in immigration matters plenary?	Aliens_Immigration and Citizenship_Memo 9 - GP.docx	ROSS-003289941-ROSS-003289942
Smith v. Sec'y of Army, 384 F.3d 1288	34+5(6)	As a general matter, a military service member is entitled only to the salary of the rank to which he is appointed and in which he serves.	Is a military service member entitled only to the salary of the rank to which he is appointed and in which he serves?	Armed Services - Memo 167 - JS.docx	ROSS-003290398-ROSS-003290399
Beitner v. Becker, 34 A.D.3d 406	8.30E+56	Memorandum of indebtedness, which stated only that promisor owed promisee certain corporate stock, negotiable instruments, and action warrants, was not a promissory note, where it did not by its terms contain a promise to pay; rather, the memorandum was a voluntary and unenforceable executory promise. McKinney's Uniform Commercial Code SS 3-104(1)(a-d), (2)(d).	Is a memorandum in the form of a promissory note if it did not by its terms contain a promise to pay?	010254.docx	LEGALEASE-00137908-LEGALEASE-00137909
United States v. Apple, 927 F. Supp. 1119	63+1(1)	Fundamental purpose of bribery statute is to preserve integrity of federal funds that support state government activities. 18 U.S.C.A. S 666(a)(2).	What is the fundamental purpose of the federal bribery statute?	011804.docx	LEGALEASE-00137761-LEGALEASE-00137762
Twp. of Crane v. Secoy, 103 Ohio St. 258	316P+863	A public office is a public trust, and public property and public money in the hands of or under the control of a public officer constitute a trust fund for which the official as trustee is responsible to the same degree as the trustee of a private trust fund.	Is a public office a public trust?	Bribery - Memo #516 - C-EB.docx	ROSS-003291592-ROSS-003291594

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
People v. Calderon, 158 Cal. App. 4th 137	67+9(2)	A sufficient "entry" is made to warrant a conviction of burglary when any part of the body of the intruder is inside the premises. West's Ann.Cal.Penal Code S 459.	Is entry of any part of the body of an intruder sufficient for burglary?	Burglary - Memo 140 - JS.docx	ROSS-003332004-ROSS-003332006
People v. Glazier, 186 Cal. App. 4th 1151	67+9(2)	Burglary may be committed by using an instrument to enter a building, whether that instrument is used solely to effect entry, or to accomplish the intended larceny or felony as well. West's Ann.Cal.Penal Code S 459.	Is entry using an instrument sufficient for burglary?	012698.docx	LEGALEASE-00137428-LEGALEASE-00137429
State v. Ewing, 298 S.W.2d 439	67+10	To sustain a charge of second degree burglary, it is essential to show, directly or circumstantially, that some force was used to effect entry.	Does burglary involve entry by use of force?	012700.docx	LEGALEASE-00137432-LEGALEASE-00137433
Hall v. State Farm Fire & Cas. Co., 937 F.2d 210	67+2	Elements necessary to constitute crime of common-law burglary include breaking and entering in nighttime of dwelling house of another with intent to commit felony therein.	What are the elements of common law burglary?	Burglary - Memo 150 - JS.docx	ROSS-003331016-ROSS-003331018
State v. Green, 182 Wash. App. 133	67+46(2)	Failure to instruct that to find defendant guilty jury must find that breaking or entering was done with intent to commit felony or other infamous crime was prejudicial error in prosecution for felonious breaking and entering. G.S. S 14-54.	Is breaking and entering a felony?	012729.docx	LEGALEASE-00137535-LEGALEASE-00137536
State v. English, 132 Conn. 573	410+337(19)	Where defendant charged with crime of statutory burglary with violence testified in his own behalf, a proper record of conviction for prior burglary would be admissible as affecting defendant's credibility as a witness, since both common-law and statutory burglary are infamous crimes. Gen.St.1930, SS 5582, 6091, 6097, 6100.	Is burglary an infamous crime?	Burglary - Memo 155 - JS.docx	ROSS-003317187-ROSS-003317189
People v. Dabney, 260 Cal. App. 2d 786	67+3	In order to obtain conviction for burglary, prosecution must prove that the entry was made with specific intent to commit grand or petit larceny or any felony. West's Ann.Pen.Code, S 459.	Does burglary require specific intent?	012754.docx	LEGALEASE-00137402-LEGALEASE-00137403
Holiday Dinner Theatres of Am. v. Bartke, 281 So. 2d 376	307A+687	In considering motion to dismiss, movant is deemed to admit as true material facts well pleaded. 30 F.S.A. Rules of Civil Procedure, rules 1.110(b), 1.120(b).	Will a motion to dismiss admit only well pleaded facts?	Pleading - Memo 346 - RMM.docx	ROSS-003305095-ROSS-003305096
Checker Leasing v. Sorbello, 181 W. Va. 199	307A+483	Failure to respond to request for admissions will be deemed an admission of matter set forth in request. Rules Civ.Proc., Rule 36.	Will failure to respond to a request for admissions be deemed an admission of matter set forth in a request?	030157.docx	LEGALEASE-00137178-LEGALEASE-00137179
United Auto. Ins. Co. v. W. Hollywood Pain & Rehab. Ctr., 162 So. 3d 98	307A+486	If the adverse party is not prejudiced, relief from a technical admission may be granted for mere inadvertence. West's F.S.A. RCP Rule 1.370.	Can relief from a technical admission be granted for mere inadvertence if the adverse party is not prejudiced?	030496.docx	LEGALEASE-00137139-LEGALEASE-00137140
Wood v. Am. Locomotive Co., 246 A.D. 376	307A+93	General examination before trial may be had on showing of necessity and materiality, but may not be availed of to harass adverse party or for purpose of fishing expedition, and must be sought and prosecuted in good faith. Civil Practice Act, S 288.	Will examinations before trial which are calculated to harass and annoy the opponents not be granted?	Pretrial Procedure - Memo # 4474 - C - KG.docx	ROSS-003331148-ROSS-003331149
Voegele v. Tschirley, 76 S.D. 509	30+3239	In absence of showing of clear abuse of discretion, trial court's action in regard to granting or denying continuance following amendment of the pleadings will not be disturbed by the Supreme Court.	Is the granting of continuance because of amendment to a pleading within discretion of a court?	031215.docx	LEGALEASE-00137097-LEGALEASE-00137098

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In re Crown Castle Int'l Corp., 247 S.W.3d 349	307A+36.1	Under Delaware law, derivative plaintiffs are not entitled to discovery in order to demonstrate presuit demand futility.	Are derivative plaintiffs not entitled to discovery in order to demonstrate presuit demand futility?	Pretrial Procedure - Memo # 4602 - C - KG.docx	LEGALEASE-00027542-LEGALEASE-00027543
State v. Ralph Williams N. W. Chrysler Plymouth, 87 Wash. 2d 298	307A+725	Decision to impose terms as a condition to grant of a continuance is within discretion of trial court and will be overturned by Supreme Court only if there exists a manifest abuse of discretion. CR 40(d).	Is the trial court vested with the power to impose terms as the condition for granting a continuance?	Pretrial Procedure - Memo # 4681 - C - ES.docx	ROSS-003304642-ROSS-003304643
Johansen v. Gray, 279 A.D. 108	307A+173	The statute contemplates a taking of testimony to resolve an issue of fact between parties to an action in so far as it arises from the pleadings of such parties to each other, and does not authorize an examination of a party to an action by another party in respect of an issue of fact, unless it arises from the pleadings between such parties. Rules of Civil Practice, rule 63; Civil Practice Act, S 288.	Should the right to have an examination of a party before trial be found in a statute or rule?	031432.docx	LEGALEASE-00137450-LEGALEASE-00137451
Dickson v. Simonds, 107 N.Y.S.2d 257	307A+91	Priority in examination of adverse party before trial must be determined on the facts and circumstances of each case.	Should the priority in examination of an adverse party before trial be determined on the facts and circumstances of each case?	031478.docx	LEGALEASE-00137085-LEGALEASE-00137086
Lake v. Le Jeune, 226 La. 48	308+103(7)	A mandate to buy or sell must be express and special; if conceived only in general terms it does not suffice. LSA-C.C. arts. 2996, 2997.	Should the mandate to buy or sell property be express and special?	Principal and Agent - Memo 73 - KC.docx	ROSS-003318262-ROSS-003318263
Rame v. Popovich, 878 F. Supp. 2d 439	25T+329	Arbitrator did not exceed her authority or act in manifest disregard of the law in determining that parties' agreement permitted the employees to bring their Fair Labor Standards Act (FLSA) and New York Labor Law claims against employers on a collective or class basis; agreement did not contain an explicit class action waiver, and contained language that "the arbitrator will decide all claims according to law, may award all damages and relief allowed by law," and that "(t)he arbitration may award any remedy or relief as a court could award on the same claim." 9 U.S.C.A. S 10(a)(4); Fair Labor Standards Act of 1938, S 1 et seq., 29 U.S.C.A. S 201 et seq.	Is a waiver of Fair Labor Standards Act (FLSA) collective action enforceable?	007601.docx	LEGALEASE-00138999-LEGALEASE-00139000
Erlandson v. Erskine, 76 Mont. 537	8.30E+266	Renewal note is treated as new transaction on new promise, if parties' intention was to extinguish original note.	Can a renewal note be treated as a new transaction or promise if governed by the intention of parties?	Bills and Notes - Memo 178 - IS.docx	LEGALEASE-00027936-LEGALEASE-00027937
Sawgrass Builders v. Realty Co-op., 172 Ga. App. 324	83E+695	A check is an unconditional promise to pay and a stop payment order does not discharge the maker's liability on the check.	Does mere order of stop payment discharges the maker of the check from his liabilities?	010148.docx	LEGALEASE-00138832-LEGALEASE-00138833
Arnold v. Potomac Improvement Co., 118 W. Va. 425	83E+618(4)	What is reasonable time within which to present demand note for payment is question of fact to be determined by trier of facts on circumstances in each particular case. Code 1931, 46-6-2.	What is the reasonable time in which a demand note must be presented for payment?	Bills and Notes- Memo 377-PR.docx	ROSS-003289151-ROSS-003289153
In re McMullen Oil Co., 251 B.R. 558	172H+622	Under California law, a bank may be liable for conversion when it permits the deposit of a check into a third party's account without the indorsement of the payee. West's Ann.Cal.Com.Code S 3420(a).	Can the bank be held liable for conversion of check?	Bills and Notes- Memo 380-PR.docx	ROSS-003303817-ROSS-003303818
State v. Gibbs, 306 S.W.3d 178	386+76	The intent to commit a crime is an essential element of burglary; it is this element of criminal intent that separates burglary in the second degree from its lesser-included offense of trespass in the first degree.	What separates second degree burglary from first degree trespass?	Burglary - Memo 169 - KNR.docx	ROSS-003303692-ROSS-003303694

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Prodon v. State, 555 S.W.2d 451	67+3	Intent to commit theft or intent to commit felony, as used in burglary statute, is element of offense of burglary. V.T.C.A., Penal Code S 30.02.	Does burglary require intent to commit theft?	Burglary - Memo 185 - KNR.docx	ROSS-003288743-ROSS-003288744
Martin v. State, 10 Md. App. 274	129+110	To convict for disorderly conduct, trier of fact must find that there was unreasonable noise, followed by admonition to stop, which was in turn followed by more unreasonable noise. IC 35-45-1-3 (1982 Ed.).	When do courts sustain disorderly conviction based on unreasonable noise?	014410.docx	LEGALEASE-00138533-LEGALEASE-00138534
In re Exmark Mfg. Co., 299 S.W.3d 519	307A+36.1	Order compelling discovery from manufacturer of zero-turn riding lawnmower in products liability action, arising out of accident in which owner of this type of lawnmower was paralyzed as result of "rollover" incident involving lawnmower, requiring manufacturer to disclose information on other lawnmowers manufacturer made but which owner had not used, was reasonably tailored to relevant product defect, and was not impermissibly overbroad; order focused on production of documents about inclusion or lack of rollover protective systems on zero-turn riding lawnmowers and focused on different models of the same basic product rather than different products, and there was a connection between alleged defect and discovery ordered. Vernon's Ann.Texas Rules Civ.Proc., Rule 192.3(a); V.T.C.A., Civil Practice & Remedies Code S 82.005.	Should there be a connection between the alleged defect and the discovery ordered?	031078.docx	LEGALEASE-00138221-LEGALEASE-00138222
Beam ex rel. Martha Stewart Living Omnimedia v. Stewart, 845 A.2d 1040	307A+36.1	In general, derivative plaintiffs are not entitled to discovery in order to demonstrate demand futility.	Are derivative plaintiffs entitled to discovery in order to demonstrate demand futility?	Pretrial Procedure - Memo # 4838 - C - SK.docx	ROSS-003331621-ROSS-003331622
Smith v. Loftis Bros. & Co., 43 Ga. App. 354	307A+69.1	Testimony taken by deposition should be reduced to writing by officer or disinterested stenographer and subscribed by deponent (Civ.Code 1910, S 5905 et seq.).	"Should the testimony of the witness be reduced to writing by the officer taking the deposition, or by the witness in the presence of the officer; or the officer may employ a disinterested stenographer to take down and write out the testimony?"	031665.docx	LEGALEASE-00138412-LEGALEASE-00138413
Parker v. Culler Furniture Co., 278 A.D. 135	307A+91	In determining whether examination of adversary before trial should be ordered, test is one of necessity and usefulness, and not one of burden of proof.	"In determining whether examination of an adversary before trial should be ordered, is the test one of necessity and usefulness?"	031730.docx	LEGALEASE-00138135-LEGALEASE-00138136
In re Gilbert, 274 Ky. 187	307A+74	An examiner who takes depositions is a sworn officer of the court, and examiner's certificate imports all the fidelity and exactitude of the sworn testimony of the witness in open court.	Is an examiner who takes depositions a sworn officer of the court?	Pretrial Procedure - Memo # 4980 - C - NE.docx	ROSS-003302884-ROSS-003302885
Dep't of Mgmt. v. Fastrac Const. Inc., 701 So. 2d 1200	307A+36.1	Trial court may order discovery necessary for a determination of proper venue.	Can a trial court order discovery necessary for a determination of proper venue?	031988.docx	LEGALEASE-00138146-LEGALEASE-00138147
Prather v. Pritchard, 26 Ind. 65	307A+74	It is not necessary that the names of the witnesses examined should be stated in the certificate of the officer taking the deposition. It is sufficient if they are referred to as "the above-named deponents."	Is it not necessary that the names of the witnesses examined should be stated in the certificate of the officer taking the deposition?	032558.docx	LEGALEASE-00138912-LEGALEASE-00138913

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United States v. Bankers Ins. Co., 245 F.3d 315	25T+151	Mandatory arbitration, as a prerequisite to initiation of litigation, and binding arbitration, in which the parties must accept an award or decision of the arbitrator, are two different things, and although non-binding arbitration may turn out to be a futile exercise, this fact does not, as a legal matter, preclude a non-binding arbitration agreement from being enforced.	Whether mandatory arbitration and binding arbitration are considered to be the same by the court?	007613.docx	LEGALEASE-00139009- LEGALEASE-00139011
McIlroy v. PaineWebber, 989 F.2d 817	25T+151	When parties agree to arbitration, they agree to accept whatever reasonable uncertainties might arise from the process.	When parties agree to arbitration do they agree to accept uncertainties which may arise from the process?	007616.docx	LEGALEASE-00139012- LEGALEASE-00139013
United States v. O'Brien, 994 F. Supp. 2d 167	63+13	Generally, in a bribery case, whether wages are bona fide and paid in the usual course of business are questions of fact for the jury. 18 U.S.C.A. S 666(c).	Who determines whether wages and salaries are bona fide for purposes of a bribery prosecution?	011895.docx	LEGALEASE-00139311- LEGALEASE-00139312
Raymer v. United States, 660 F.2d 1136	260+92.5(2)	Federal Coal Mine Health and Safety Act of 1969 did not create private right of action by mine employees against Government. Federal Coal Mine Health and Safety Act of 1969, SS 2, 3(a) as amended 30 U.S.C.A. SS 801 et seq., 802(a).	Is there a private right of action under the mine safety act?	Mines and Minerals - Memo #57 - C - CSS.docx	ROSS-003301927-ROSS- 003301928
Cousins v. State Farm Mut. Auto. Ins. Co., 258 So. 2d 629	307A+13	Decisions of federal courts interpreting similar federal rules on discovery are persuasive, though not necessarily controlling, in proceedings involving state discovery statutes. LSA-C.C.P. arts. 1421-1452; Fed.Rules Civ.Proc. rules 26-37, 28 U.S.C.A.	Are decisions applying and interpreting a federal rule persuasive in nature?	026242.docx	LEGALEASE-00139063- LEGALEASE-00139064
Clark v. Clark, 11 Va. App. 286	307A+501	Claimant is absolutely entitled to one nonsuit within statutory limitations period. Code 1950, S 8.01-380.	Is a claimant absolutely entitled to one nonsuit within the statutory limitations period?	026596.docx	LEGALEASE-00139147- LEGALEASE-00139148
Ricketson v. Blair, 171 Ga. App. 714	307A+717.1	If "cumulative" testimony of absent witness is "material," motion for continuance should nevertheless be granted. O.C.G.A. S 9-10-160.	"If ""cumulative"" testimony of an absent witness is ""material,"" should a motion for continuance be granted?"	Pretrial Procedure - Memo # 2015 - C - DA.docx	ROSS-003289074-ROSS- 003289075
Columbus Tr. Co. v. Upper Hudson Elec. & R. Co., 190 N.Y.S. 737	307A+91	In Civil Practice Act, S 1569, permitting a judge to apply the remedial provisions of that act to suits pending when it took effect, the term "remedial," which means a statute to supply some defect or abridge some superfluity of the common law or to give a new remedy, was evidently used in view of the distinction between remedial statutes which can be made applicable to pending actions and those statutes which create new rights or affect existing rights, and the provisions of article 9 of that act for the examination of witnesses before trial are within the term.	"What does the term ""remedial"" mean?"	030957.docx	LEGALEASE-00139143- LEGALEASE-00139144
United States v. Standefer, 610 F.2d 1076	316P+1057	Neither statute proscribing the providing of illegal gratuities to a public official nor statute prohibiting an employee of the United States acting in connection with any revenue law of the United States from accepting fees, compensation or rewards, other than as permitted by law, for the performance of his duties obligates the government to prove a specific intent or a quid pro quo. 18 U.S.C.A. S 201(f); 26 U.S.C.A. (I.R.C.1954) S 7214(a)(2)-ç Y.	Is the government obligated to prove a specific intent in a bribery charge?	011927.docx	LEGALEASE-00139689- LEGALEASE-00139690
White v. Dougherty, 8 Tenn. 309	289+716	The joint creditors of a partnership have in equity a general lien on the funds of the partnership, and are entitled to payment out of the partnership effects, in preference to creditors of an individual member of the firm.	"In cases of insolvency, do the partnership creditors have a right to payment from the partnership fund in preference to individual creditors of the partners?"	022358.docx	LEGALEASE-00139434- LEGALEASE-00139435

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Harper v. State Farm Mut. Auto. Ins. Co., 484 So. 2d 737	307A+749.1	Pretrial order controls subject and course of action unless modified at trial to prevent manifest injustice.	Does a pretrial proceeding control the subject and course of action?	027549.docx	LEGALEASE-00139427-LEGALEASE-00139428
Gulf City Ins. Co. v. Stephens, 51 Ala. 121	307A+74	When the certificate of the commissioner states that the witnesses were "duly sworn" it will be presumed that they were sworn, as the statute requires (Rev.Code, S 2720), "to speak the truth, the whole truth, and nothing but the truth."	"When the certificate of the commissioner states that the witnesses were ""duly sworn"", will it be presumed that they were sworn, as the statute requires?"	032717.docx	LEGALEASE-00139639-LEGALEASE-00139640
Leavings v. Mills, 175 S.W.3d 301	83E+401	A note may be transferred even if it is not indorsed by the transferee; in that case, the transferee acquires whatever rights the transferor had in the note, but he does not become the holder. V.T.C.A., Bus. & C. S 3.201.	Can a note be transferred when it is not indorsed by the transferee?	Bills and Notes - Memo 511 - RK.docx	ROSS-003304302-ROSS-003304303
Aiken Bag Corp. v. McLeod, 89 Ga. App. 737	8.30E+76	A check is a mere order upon a bank to pay from the drawer's account and is subject to revocation by drawer at any time before it has been certified, accepted, or paid by the bank. Code, S 14-1707.	Is a check revocable until paid?	010338.docx	LEGALEASE-00139783-LEGALEASE-00139784
Ingram v. Earthman, 993 S.W.2d 611	8.30E+06	Note that was not negotiable was not governed by Uniform Commercial Code (UCC), and thus, rights and liabilities of parties to note had to be found in common law of bills and notes and in contract law.	Are negotiable notes governed by Uniform Commercial Code?	010360.docx	LEGALEASE-00140247-LEGALEASE-00140248
State v. Walker, 130 S.W.3d 18	63+1(1)	Crime of bribery is complete when offer is made; it is not element of offense that act to be influenced was actually performed or accomplished. V.A.M.S. S 576.010.	"In order to commit the offense of bribery, does the statute require that the act to be influenced be performed?"	011925.docx	LEGALEASE-00139707-LEGALEASE-00139708
Allen v. State ex rel. Ernest N. Morial--New Orleans Exhibition Hall Auth., 814 So. 2d 644	200+194	State has duty to exercise reasonable care in maintenance of highways to prevent defective and dangerous conditions from injuring travellers, and if highways are in dangerously defective condition and State has notice of condition, State is negligent if it does not notify or warn public of condition.	Does the statehave a duty to exercise reasonable care in the maintenance and care of its highways?	018966.docx	LEGALEASE-00139769-LEGALEASE-00139770
Interstate Busses Corp. v. Blodgett, 276 U.S. 245	200+121	State may impose more than one form of tax on use of highways in interstate commerce, if aggregate charge bears reasonable relation to privilege granted.	Can the State impose more than one form of tax on use of its highways?	019005.docx	LEGALEASE-00140338-LEGALEASE-00140339
Kreidler v. Cecio Bros., 19 Conn. Supp. 477	200+96(1)	A right of action against highway commissioner is maintainable, if at all, only under statute, and no right exists in domain of alleged nuisance. Gen.St.1949, S 2201, as amended Gen.St.Supp.1953, S 964.	Is a right of action against highway commissioner maintainable?	019102.docx	LEGALEASE-00139927-LEGALEASE-00139928
Coakley v. Attorney Gen., 318 Mass. 508	296+2	"Pensions" are bounties which Congress has right to give, to withhold, to distribute, or to recall at its discretion.	"Does congress have the right to give, to withhold, to distribute, or to recall at its discretion pensions?"	022798.docx	LEGALEASE-00140556-LEGALEASE-00140557

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Doe v. City of Los Angeles, 42 Cal. 4th 531	241+191	Extended statute of limitations reviving personal injury actions arising from childhood sexual abuse against an allegedly responsible nonperpetrator is not a defense to a statute of limitations, but an expansion of the limitations period, the purpose of which is to expand access to the courts by victims of childhood sexual abuse, and it would be inconsistent with this purpose to apply more stringent rules of pleading than those that ordinarily apply, so that a sexual abuse complaint ordinarily is sufficient if it alleges ultimate rather than evidentiary facts. West's Ann.Cal.C.C.P. SS 340.1(b)(2), 425.10(a).	Is a complaint sufficient if it alleges ultimate rather than evidentiary facts?	023423.docx	LEGALEASE-00140051-LEGALEASE-00140052
Henry v. Huntley, 37 Vt. 316	307A+69.1	Where the name of a magistrate is inserted in a citation for taking a deposition, the party taking the deposition is not at liberty to go to another magistrate.	"Where the name of a magistrate is inserted in a citation for taking a deposition, is the party taking the deposition not at liberty to go to another magistrate?"	029173.docx	LEGALEASE-00140217-LEGALEASE-00140218
Kirby v. Cannon, 9 Ind. 371	307A+69.1	A party cannot retake the deposition of a witness, or take his supplementary deposition, without leave of court.	"Can a party retake the deposition of a witness, or take his supplementary deposition, without leave of court?"	Pretrial Procedure - Memo # 3235 - C - ES.docx	ROSS-003301201-ROSS-003301202
Cook v. Shorthill, 82 Iowa 277	307A+74	Under Code 1873, S 3738, providing that where depositions are taken on interrogatories neither of the parties, their agents or attorneys, shall be present unless both are present, and that the certificate shall state the fact if the party is present, a deposition will not be suppressed because the notary's certificate recites that it was reduced to writing by another person in his presence, unless it is shown that such person was a party, or the agent or attorney of a party.	"When depositions are taken on commission, with interrogatories attached, can party attend in person or by attorney, unless the adverse party is present or is represented?"	Pretrial Procedure - Memo # 5304 - C - VA.docx	ROSS-003289475-ROSS-003289476
Thilman & Co. v. Esposito, 87 Ill. App. 3d 289	307A+726	Where defendants' motion for rehearing was continued four times before motion was denied, two of such occasions were at request of defendants, and defendants did not seek to obtain new counsel to represent them after attorney suffered coronary deficiency, but rather, defendants sought continuances hoping their attorney would recover and again actively represent them, defendants did not act with due diligence, even if motion for continuance had been before court, and therefore, trial court did not abuse its discretion in denying defendants' motion for rehearing instead of granting continuance.	Can the judge deny defendants' motion for rehearing rather than ordering continuance?	032441.docx	LEGALEASE-00140466-LEGALEASE-00140467
Expedia v. City of New York Dep't of Fin., 22 N.Y.3d 121	371+2013	Local governments lack an independent power to tax, as the state constitution vests the taxing power in the Legislature and authorizes the Legislature to delegate that power to local governments. McKinney's Const. Art. 16, S 1.	Does a state constitution vests the taxing power in the state legislature?	045469.docx	LEGALEASE-00140419-LEGALEASE-00140420
United States v. Baumann, 684 F. Supp. 2d 1146	63+1(1)	Statute prohibiting bribery concerning programs receiving federal funds does not require that bribe itself be in excess of \$5,000; government may also allege that business or transaction received in return for bribe was worth in excess of \$5,000. 18 U.S.C.A. S 666(a)(2).	"Does any statute require that the bribe itself be in excess of \$5,000?"	Bribery - Memo #303 - C-JL.docx	ROSS-003302073-ROSS-003302074

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United States v. Apple, 927 F. Supp. 1119	63+1(1)	Fundamental purpose of bribery statute is to preserve integrity of federal funds that support state government activities. 18 U.S.C.A. S 666(a)(2).	What is the fundamental purpose behind the federal bribery statute?	012147.docx	LEGALEASE-00141949-LEGALEASE-00141950
United States v. Rasco, 853 F.2d 501	63+1(1)	In obtaining conviction of defendant for bribery of bank official, Government need not establish that bribe was actually paid; crime of offering bribe is completed when defendant expressed ability and desire to pay bribe. 18 U.S.C.A. S 201.	Is statute prohibiting bribery of a public official satisfied if a defendant expresses ability and a desire to pay the bribe?	012161.docx	LEGALEASE-00141987-LEGALEASE-00141988
Dixon v. Alford, 143 So. 679	113+3	No custom could require landowner to continue advances to farmer tenant when tenant was not working and anticipated crop could not be expected.	May a custom require a landowner to advance his farmer tenant?	014133.docx	LEGALEASE-00141722-LEGALEASE-00141723
Chicago, M. & St. P. Ry. Co. v. Lindeman, 143 F. 946	113+3	A custom must be uniform, certain, and known, or so notorious that a person of ordinary prudence in the exercise of reasonable care, dealing with its subjects, would have been aware of it.	"Does a custom have to be uniform, definite, and certain to be binding?"	014177.docx	LEGALEASE-00141831-LEGALEASE-00141832
Rindskoff Bros. v. Barrett, 14 Iowa 101	113+3	The requisites of a good custom are, that it must be established, uniform, general and known to the parties: the degree in which all these should attach, must depend upon the peculiar circumstances of each case.	What are the characteristics of a good custom?	014218.docx	LEGALEASE-00141967-LEGALEASE-00141968
United States v. Marcavage, 609 F.3d 264	92+1738	For purposes of First Amendment free speech analysis, "traditional public fora" are defined by the objective characteristics of the property, such as whether, by long tradition or by government fiat, the property has been devoted to assembly and debate. U.S.C.A. Const.Amend. 1.	What does traditional public fora means?	014457.docx	LEGALEASE-00141190-LEGALEASE-00141191
Nevada Power Co. v. Watt, 515 F. Supp. 307	149E+604(2)	The regulations under which the Secretary of the Interior assessed and required deposits for costs incurred by the Bureau of Land Management in preparation of environmental impact statement for those applying for right-of-way to construct an energy system were invalid as being insufficient and inconsistent with Federal Land Policy and Management Act mandate of reasonableness in view of fact that regulations did not take into consideration, nor did they permit consideration by the Secretary of factors required to be considered in a determination of reasonable costs. Federal Land Policy and Management Act of 1976, SS 304(b), 310, 504(g), 510(a), 43 U.S.C.A. SS 1734(b), 1740, 1764(g), 1770(a); National Environmental Policy Act of 1969, S 102, 42 U.S.C.A. S 4332.	Did the Congress express that the Secretary should consider the benefit to the general public in its attempted recoupment of costs of an EIS (Environmental Impact Statement) by language of section 304(b) of the FLPMA (Federal Land Policy and Management Act of 1976)?	Mines and Minerals - Memo # 125- C - EB.docx	ROSS-003291054-ROSS-003291055
The N. Carolina State Bar v. Key, 189 N.C. App. 80	388+395(5)	"Ultimate facts" are the final facts required to establish the plaintiff's cause of action or the defendant's defense, and "evidentiary facts" are those subsidiary facts required to prove the ultimate facts.	Are evidentiary facts those facts necessary to prove the ultimate facts?	Pleading - Memo 384 - RMM.docx	LEGALEASE-00031018-LEGALEASE-00031019
Burton v. Airborne Exp., 367 Ill. App. 3d 1026	302+312	Exhibits are a part of the complaint to which they are attached, and the factual allegations contained within an exhibit attached to a complaint serve to negate inconsistent allegations of fact contained within the body of the complaint.	Are exhibits attached to a complaint part of that complaint?	023454.docx	LEGALEASE-00141224-LEGALEASE-00141225

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Strong v. Gunning, 153 Ill. App. 182	307A+723.1	A defendant is not entitled several terms after filing his plea to a continuance under Practice Act 1907, S 32, Smith-Hurd Stats. c. 110, Appendix S 32. Similar provisions Civil Practice Act 1933, see S.H.A. ch. 110, S 36.	Is a defendant not entitled to several terms after filing his plea to a continuance?	030631.docx	LEGALEASE-00141260- LEGALEASE-00141261
Butler v. Harter, 152 So. 3d 705	307A+375	On plaintiff's motion to compel discovery of defendant's entire litigation file after defendant moved for attorney fees and costs when judgment was entered for plaintiff on her action for damages stemming from a car accident in an amount less than defendant's offer of judgment, plaintiff failed to demonstrate a need of the materials so as to challenge whether defendant's offer of judgment was made in good faith, or that she was unable to obtain the equivalent of the materials by other means, as required to obtain defendant's work product; the trial court did not find need or undue hardship, but rather found its credibility determination would necessitate the use of privileged communications, assuming proper waiver of privilege, apparently referring to attorney-client privilege, rather than work product. West's F.S.A. RCP Rule 1.280(b)(4).	"To determine whether a moving party seeking privileged material will experience undue hardship if they do not obtain the material, must courts balance the moving party's burden in obtaining information?"	Pretrial Procedure - Memo # 4810 - C - DHA.docx	ROSS-003291271-ROSS- 003291272
Leet v. Union Pac. R. Co., 25 Cal. 2d 605	307A+725	If court may not refuse to exercise its jurisdiction, it may not accomplish the same result by an indefinite continuance.	Can a court accomplish the same result by an indefinite continuance if it refuses to exercise its jurisdiction?	032134.docx	LEGALEASE-00141322- LEGALEASE-00141323
Sydnor v. Palmer, 29 Wis. 226	307A+74	Where the return of commissioners to take testimony out of the state shows that the witnesses subscribed their names to their respective answers, and the certificate of the commissioners state the witnesses "were duly sworn before giving their evidence," it will be presumed that they knew the contents of their answers as written down, and were sworn "to speak the truth," according to the customary form of oath.	"Shall the commissioners certify that the witness ""was duly sworn before giving his evidence""?"	032537.docx	LEGALEASE-00142001- LEGALEASE-00142002
Fisk v. Tank, 12 Wis. 276	307A+74	A deposition is not invalidated for want of a venue or statement of the place of taking, either in its margin or the commissioner's certificate.	Is a deposition not invalidated for want of a venue or statement of the place of taking?	Pretrial Procedure - Memo # 5434 - C - SHB.docx	ROSS-003289525-ROSS- 003289526
Hale v. Gibbs, 43 Iowa 380	307A+75	It is competent for the party who has taken a deposition to refuse to offer it, or any part of it, in evidence, but he cannot withdraw it from the files.	"Is it competent for the party who has taken a deposition to refuse to offer it, or any part of it, in evidence, but he cannot withdraw it from the files?"	032581.docx	LEGALEASE-00141681- LEGALEASE-00141682
Succession of Grant, 14 La. Ann. 795	307A+74	The capacity and signature of a justice of the peace who has taken a deposition under commission in another state must be established by the certificate of the governor, under the great seal of the state.	Is a certificate of authentication required from a justice of the peace of a state to take a deposition of another state?	Pretrial Procedure - Memo # 5487 - C - PC.docx	LEGALEASE-00031355- LEGALEASE-00031356
Ankrim v. Sturges, 9 Pa. 275	307A+74	Where a rule of court provides that depositions shall not be read unless filed within a reasonable time, and depositions were taken, and the cause continued because they were not filed, and the depositions were then filed, they may be read on the trial of the cause.	Does the rule of court require depositions to be filed within a reasonable time?	Pretrial Procedure - Memo # 5724 - C - DHA.docx	ROSS-003288945-ROSS- 003288946

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Texas Parks & Wildlife Dep't v. Garland, 313 S.W.3d 920	307A+554	If a trial court lacks jurisdiction over some claims but not others, the trial court should dismiss those claims over which it does not have subject matter jurisdiction but retain those claims over which it does.	Will a trial court dismiss claims over which it has no subject matter jurisdiction?	032984.docx	LEGALEASE-00141523-LEGALEASE-00141524
In re OSG Ship Mgmt., 514 S.W.3d 331	307A+554	Forum-selection clauses are presumptively valid unless shown to be unreasonable, and they may be enforced through a motion to dismiss.	"Unless shown to be unreasonable, are forum-selection clauses valid?"	033313.docx	LEGALEASE-00140806-LEGALEASE-00140807
Hentz v. Asheville City Bd. of Educ., 189 N.C. App. 520	307A+554	A motion to dismiss for lack of subject matter jurisdiction may be raised at any time. Rules Civ.Proc., Rule 12(b)(1), West's N.C.G.S.A. S 1A-1.	Can a motion to dismiss subject matter jurisdiction be raised at any time?	033319.docx	LEGALEASE-00140824-LEGALEASE-00140825
Tennant v. Sinclair Oil & Gas Co., 355 P.2d 887	371+2001	It is a sound principle of taxation that, insofar as practicable, the benefits of taxation should be directly received by those who are most directly concerned in bearing the burdens of taxation.	Should the benefits of taxation be directly received by those directly concerned in bearing burdens of taxation?	045157.docx	LEGALEASE-00140945-LEGALEASE-00140946
Tennant v. Sinclair Oil & Gas Co., 355 P.2d 887	371+2001	It is a sound principle of taxation that, insofar as practicable, the benefits of taxation should be directly received by those who are most directly concerned in bearing the burdens of taxation.	Should the benefits of taxation be directly received by those directly concerned in bearing burdens of taxation?	Taxation - Memo # 412 - C - NA.docx	LEGALEASE-00031605-LEGALEASE-00031606
Atl. Coast Line R. Co. v. Com., 302 Ky. 36	371+2001	The obligation to pay taxes rests solely on legislation and legislative intent to tax must clearly appear.	Does the obligation to pay taxes rest solely on legislation and a clear legislative intent?	045159.docx	LEGALEASE-00140965-LEGALEASE-00140966
B-C Remedy Co. v. Unemployment Comp. Comm'n of N. C., 226 N.C. 52	371+2810	The relation between the state and a taxpayer is not one of contract, and the state acquires no vested interest in taxpayer's money which the state cannot waive by appropriate legislation.	Is the relation between the state and a taxpayer one of a contract?	Taxation - Memo # 414 - C - SU.docx	ROSS-003288778-ROSS-003288779
Colonial Pipeline Co. v. Com., 145 S.E.2d 227	371+2005	State has inherent and unlimited power of taxation unless restrained by State or Federal Constitution, and power of state to levy taxes is not derived from Federal Constitution as interpreted by Supreme Court.	Does the state have inherent and unlimited power of taxation unless restrained by State or Federal Constitution?	045362.docx	LEGALEASE-00141346-LEGALEASE-00141347
Giers Imp. Corp. v. Inv. Serv., 235 S.W.2d 355	268+956(1)	The power to tax is a governmental function inherent in the state and exercised by legislature subject to constitutional limitation, but there are matters governmental in character, including taxation, over which a city may exercise authority delegated to it.	Are there taxation matters over which a city may exercise authority delegated to it?	045449.docx	LEGALEASE-00141453-LEGALEASE-00141454
Pelouze v. City of Richmond, 183 Va. 805	371+2275	Generally, a statute will not be construed to tax municipality's property, unless such intention is clearly manifested by statute, though state has power to tax its political subdivisions' property, in absence of constitutional prohibition.	Can a statute be construed to tax municipality's property without being clearly manifested by the statute?	045492.docx	LEGALEASE-00141762-LEGALEASE-00141763
Cargill v. Spaeth, 215 Minn. 540	371+2005	A state may tax interest received by a domiciliary thereof from a source without the state. Minn.St.1941, S 290.17(2).	Can a state tax interest received by a domiciliary thereof from a source without the state?	045507.docx	LEGALEASE-00141773-LEGALEASE-00141774
Chesapeake & Potomac Tel. Co. v. City of Morgantown, 105 S.E.2d 260	371+3249	"Excise taxes", such as occupational, license, privilege and franchise taxes, are charges for privilege arising from use of property, while "property taxes" are taxes directly on property itself.	"Are ""excise taxes"" charges for privilege arising from use of property?"	Taxation - Memo # 678 - C - NS.docx	ROSS-003330700-ROSS-003330701
Polimaster Ltd. v. RAE Sys., 623 F.3d 832	25T+149	Adherence to agreed-upon procedures by parties to an arbitration agreement is regularly enforced, such as where relevant to the choice of forum of arbitration or the appointment of arbitrators.	Is adherence to the parties agreed upon procedure for arbitration regularly enforced?	007624.docx	LEGALEASE-00143282-LEGALEASE-00143283

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Jennings, 160 F.3d 1006	63+1(1)	For purposes of statute prohibiting bribery of public officials and witnesses, illegal gratuities, which typically follow the act for which they are paid, may be conveyed before the occurrence of the act, so long as the payor believes the official has already committed himself or herself to the action. 18 U.S.C.A. S 201(c)(1)(A).	What is the difference between accepting a bribe and accepting a gratuity?	Bribery - Memo #340 - C-JL.docx	LEGALEASE-00032040-LEGALEASE-00032041
United States v. Apple, 927 F. Supp. 1119	63+1(2)	Bribery statute prohibiting attempts to influence state governmental agency receiving federal funds in connection with any business or transaction of agency involving "anything of value of \$5,000 or more" did not require government to show that "thing" that held value of over \$5,000 held that value for Indiana Department of Environmental Management (IDEM), whose investigator was allegedly bribed; all else being equal, showing that "thing" held value for defendant could suffice, as well as showing that defendant's bribe did cost IDEM over \$5,000 or otherwise held value for IDEM. 18 U.S.C.A. S 666(a)(2).	"In bribery involving federal monies, should the assessment of the thing's value be connected to the integrity of federal program funds?"	Bribery - Memo #348 - C-JL.docx	ROSS-003288833-ROSS-003288834
Consolidation Coal Co. v. United States, 528 F.3d 1344	260+92.5(2)	The phrase "coal produced" in Surface Mining Control and Reclamations Act (SMCRA) section concerning coal producers' payment of reclamation fees would be interpreted as "coal extracted," rather than as including the entire process of extracting and selling coal, in order to avoid a potential violation of the Export Clause; even assuming that SMCRA was ambiguous as to the meaning of "coal produced," this interpretation was the only reasonable construction preserving the constitutionality of the statute and neither the government, nor the court was bound by any past contrary assertions by the government. U.S.C.A. Art. I, S 9, cl. 5; Surface Mining Control and Reclamation Act of 1977, S 402(a), 30 U.S.C.A. S 1232(a).	"Does ""coal produced"" mean ""coal extracted""?"	021207.docx	LEGALEASE-00143265-LEGALEASE-00143266
Ballmer v. Babbitt, 926 F. Supp. 575	260+94	Five-year statute of limitations governing proceeding for enforcement of civil fine, penalty, or forfeiture applied to bar federal government's effort to collect delinquent environmental-related federal and state civil penalties against coal mining company and its officer and shareholder, despite fact that collection was sought through administrative rather than judicial proceedings, as Office of Surface Mining Reclamation and Enforcement (OSM) did not take enforcement action until it placed company on its applicant violator system more than five years after Office's claims accrued. 28 U.S.C.A. S 2462; Surface Mining Control and Reclamation Act of 1977, S 510(c), as amended, 30 U.S.C.A. S 1260(c); 30 C.F.R. SS 773.15(b)(1), 773.5.	"Is the reclamation fee a fine, penalty, or forfeiture?"	Mines and Minerals - Memo # 55 - C - CSS.docx	ROSS-003291061-ROSS-003291062
United States v. Etcheverry, 230 F.2d	260+29.3	Where mining claim has been perfected, it is in effect a grant, from United States, of exclusive right of possession but exclusive possession of surface is limited to use for mining purposes. 30 U.S.C.A. SS 22, 26.	"When a mining claim has been perfected under the law, is it in effect a grant from the United States?"	Mines and Minerals - Memo #160 - C - EB.docx	ROSS-003302346-ROSS-003302347

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Long Trusts v. Griffin, 222 S.W.3d 412	185+63(2)	Oil and gas interests are real property, and, thus, contracts for the transfer or assignment of oil and gas interests are subject to the statute of frauds. V.T.C.A., Bus. & C. S 26.01.	Are oil and gas interests real property?	021400.docx	LEGALEASE-00143488- LEGALEASE-00143489
In re Bailey's Estate, 187 Pa. 381	289+711	Where there are partnership and separate creditors and partnership and separate assets, and the firm is insolvent, each class has priority over its respective estate.	"Where there are partnerships and separate creditors, does each class have priority upon its respective estate?"	Partnership - Memo 428- JK.docx	ROSS-003301969-ROSS- 003301970
Seacrist v. S. California Edison Co., 197 Cal. Rptr. 3d 834	307A+477.1	Judicial admissions may be made in a pleading, by stipulation during trial, or by response to request for admission.	"Can Judicial admissions be made in a pleading, by stipulation during trial, or by response to request for admission?"	030666.docx	LEGALEASE-00142838- LEGALEASE-00142839
Bydalek v. Brines, 29 S.W.3d 848	307A+723.1	Trial court was not required to grant continuance, where motion was neither verified nor supported by affidavit. V.A.M.R. 65.03.	"Is a trial court required to grant continuance, where a motion was neither verified nor supported by affidavit?"	030694.docx	LEGALEASE-00142748- LEGALEASE-00142749
Cheney v. Woodworth, 13 Colo. App. 176	307A+74	The provision that, before signing a deposition, the interrogatories and the answers thereto shall be carefully read to the witness, will conclusively be presumed to have been complied with, where the witness has signed the deposition, and the officer taking it certifies that, before so doing, it was read to him.	"Before signing a deposition, shall the interrogatories and the answers thereto be carefully read to the witness?"	032516.docx	LEGALEASE-00142162- LEGALEASE-00142164
Burke v. Scott, 410 S.W.2d 826	307A+726	Fact that there were other continuances in past, presumably granted for good cause, is no basis for denial of later continuance.	Can a continuance granted in the past for good cause be a basis for a denial in of later cause?	033519.docx	LEGALEASE-00142298- LEGALEASE-00142299
Allred v. Allred, 132 Conn. App. 430	307A+560	Because service of process implicates a court's personal jurisdiction, an action commenced by improper service must be dismissed.	Must an action commenced by improper service be dismissed?	Pretrial Procedure - Memo # 6253 - C - NS.docx	ROSS-003289131-ROSS- 003289132
Taylor v. Mazda Motor of Am., 934 So. 2d 518	307A+746	The sanction imposed by the trial court for violation of a pre-trial order must be commensurate with the offense.	Should the sanction imposed by the trial court for violation of a pre-trial order be commensurate with the offense?	033908.docx	LEGALEASE-00142334- LEGALEASE-00142335
Rucker v. Taylor, 828 N.W.2d 595	307A+560	A defendant may uphold the purpose of the service rule by moving to dismiss for untimely service. I.C.A. Rule 1.302(5).	Can a defendant uphold the purpose of the service rule by moving to dismiss for untimely service?	033965.docx	LEGALEASE-00142864- LEGALEASE-00142865
Tri Star Investments v. Miele, 407 So. 2d 292	307A+563	A trial court has inherent authority to dismiss an action when fraud has been perpetrated on the court; however, the power should be exercised cautiously and sparingly, and only upon a clear showing of fraud, pretense, collusion, or similar wrongdoing.	Does a trial court have the inherent authority to dismiss an action when it finds that a plaintiff has perpetrated a fraud on the court?	034412.docx	LEGALEASE-00143532- LEGALEASE-00143533
State v. Mitchell, 106 Ariz. 492	352H+187	It is presumed that male person charged with assault with intent to commit rape is over 18 years of age.	Is there a presumption that a male charged with assault with intent to commit rape is over 18 years of age?	Sex Offence - Memo 99 - RK.docx	LEGALEASE-00033098- LEGALEASE-00033099
Comm'r of Revenue v. Franchi, 423 Mass. 817	371+3405	General rule is that tax statutes are to be strictly construed according to their plain meaning, as State has no power to tax unless that power has been expressly conferred by statute.	Does the State have the power to tax?	045293.docx	LEGALEASE-00142800- LEGALEASE-00142801
Shea v. Boston Edison Co., 431 Mass. 251	371+2005	There is no restraint upon the power of the legislature to lay taxes, except such as the constitution of the United States or that of the state imposes.	Is there any restraint upon the power of the legislature to lay taxes?	Taxation - Memo # 518 - C - SKG.docx	ROSS-003290178-ROSS- 003290179
City & Cty. of San Francisco v. Cty. of San Mateo, 10 Cal. 4th 554	371+2513	Amount of ad valorem tax paid on parcel of real property is product of valuation of real property and tax rate applied to that valuation.	Does ad valorem tax include the valuation of the real property and the tax applied to that valuation?	045560.docx	LEGALEASE-00142110- LEGALEASE-00142111
Sabatino v. LaSalle Bank, N.A., 96 S.W.3d 113	401+5.1	In order for "title to be affected," so as to predicate venue in the county where the land is located, title to the land must be the subject of the controversy; it is not enough for the judgment to affect the title incidentally or collaterally. V.A.M.S. S 508.030.	Must the title to land be the subject of controversy for the suit to be brought in the county where the land is situated?	Venue - Memo 94 - JS.docx	ROSS-003303351-ROSS- 003303352

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Elliott v. Dep't of Labor & Indus., 151 Wash. App. 442	413+2	An industrial insurance claim is governed by explicit statutory directives and not by the common law.	Is an industrial insurance claim governed by statutory directives and not by the common law?	Workers Compensation - Memo #334 ANC.docx	ROSS-003288970-ROSS-003288971
Leadertex v. Morganton Dyeing & Finishing Corp., 67 F.3d 20	25T+182(1)	Pretrial expense and delay, without more, do not constitute prejudice sufficient to support finding of waiver of right to arbitration.	Does pretrial expense and delay constitute prejudice sufficient to support a finding of waiver?	Alternative Dispute Resolution - Memo 702 - RK.docx	ROSS-003287055-ROSS-003287056
Republic Ins. Co. v. PAICO Receivables, 383 F.3d 341	25T+182(1)	Ultimately, the question of what constitutes a waiver of the right of arbitration depends on the facts of each case.	Does the question of what constitutes a waiver of the right of arbitration depend on the facts of each case?	Alternative Dispute Resolution - Memo 709 - RK.docx	ROSS-003288672-ROSS-003288673
Wood v. Woeste, 461 S.W.3d 778	34+34.2(4)	If a service member complies with the requirements for a stay under the federal Servicemembers Civil Relief Act (SCRA), it is mandatory that the trial court grant a stay. 50 App.U.S.C.A. S 522(b)(1).	Is it mandatory for a court to grant a stay if a service member complies with the requirements for a stay?	008649.docx	LEGALEASE-00144454-LEGALEASE-00144455
Casey v. United States, 8 Cl. Ct. 234	34+2	Army regulations must be in accordance with those promulgated by the Department of Defense, and to extent that Army regulations conflict with those of DOD, the service regulations must give way. 10 U.S.C.A. S 1169.	Does a service regulation have to give way when it conflicts with a department of defense regulation?	008667.docx	LEGALEASE-00144643-LEGALEASE-00144644
U.S. ex rel. Pasciuto v. Baird, 39 F. Supp. 411	34+20.8(1)	Statements made by selective service registrants or selectees should be entirely accurate, and registrants or selectees should be held to strict accountability for each statement made. Selective Training and Service Act of 1940, S 10(a) (2), 50 U.S.C.A.Appendix, S 310(a) (2).	Should statements made by selective service registrants or selectees be entirely accurate?	Armed Services - Memo 274 - RK.docx	ROSS-003288524
United States v. Collins, 78 F.3d 1021	164T+30	Although public officials are usually the only ones charged with extorting property under color of official right, private persons may be convicted of extortion under color of official right if they aided and abetted public official's receipt of money to which he was not entitled. 18 U.S.C.A. S 1951.	When can a private person be convicted of extortion under color of official right?	012250.docx	LEGALEASE-00144963-LEGALEASE-00144964
Faust v. State, 189 Ga. App. 426	67+2	Burglary consists of two elements, the burglarious breaking and entering the house or building, and the felonious intent to steal therein or to commit a felony. Code 1942, S 2043.	Is intent to steal an element of burglary?	Burglary - Memo 214 - SB.docx	ROSS-003315190-ROSS-003315193
Cross v. State, 590 S.W.2d 510	110+795(2.35)	Defendant charged with burglary of an inhabited dwelling was not entitled to a jury instruction on simple assault; simple assault was not a lesser included offense under burglary and the evidence supported the jury determination of burglary.	Is simple assault a lesser-included offense of burglary?	Burglary - Memo 219 - SB.docx	ROSS-003314282-ROSS-003314284
Kristensen v. McGrath, 179 F.2d 796	135+1	"Residence" is not a term of fixed legal definition but takes on shades of meaning according to the statutory framework in which it is found.	"Is ""residence"" a term of fixed legal definition?"	Domicile - Memo # 21 - C-SA.docx	ROSS-003289033-ROSS-003289034
Guy Scroggins v. Emerald Expl., 401 So. 2d 680	260+47	Mineral rights, including mineral leases, are classified under the mineral code as incorporeal immovables and subject to civil code articles respecting immovable property. LSA-R.S. 31:2, 31:16, 31:18; LSA-C.C. arts. 2275, 2276.	Are mineral rights incorporeal immovables?	021381.docx	LEGALEASE-00144161-LEGALEASE-00144162
FPI Dev. v. Nakashima, 231 Cal. App. 3d 367	302+11	Properly drafted pleadings aver ultimate facts that constitute cause of action or defense thereto.	Does a properly drafted pleading aver the ultimate facts?	023516.docx	LEGALEASE-00144041-LEGALEASE-00144042

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In re Gen. Motors Corp., 296 S.W.3d 813	307A+554	The court retains the power in an abated action to dismiss claims over which it does not have jurisdiction and cases that it believes-however erroneously or inadvertently-have not been prosecuted with sufficient diligence.	Do the court retain the power to dismiss claims over which it does not have jurisdiction?	Pretrial Procedure - Memo # 5781 - C - PC.docx	ROSS-003289455-ROSS-003289456
Bankers Mut. Ins. Co. v. Friedlander, 262 A.2d 606	307A+726	Where two continuances covering period of approximately a year had been granted in tenant's insurer's action to recover amount paid after fire, denial of third continuance to locate witness was not abuse of discretion.	Would the denial of third continuance to locate witness be considered an abuse of discretion?	033226.docx	LEGALEASE-00144570-LEGALEASE-00144571
Matthews , on behalf of M.M. v. Kountze Indep. Sch. Dist., 484 S.W.3d 416	307A+552	Persuading a court, as basis for dismissal, that the challenged conduct cannot reasonably be expected to recur is a heavy burden.	"Is persuading a court that the challenged conduct cannot reasonably be expected to recur, a burden?"	034318.docx	LEGALEASE-00144273-LEGALEASE-00144274
Gabriel v. Johnston's L.P. Gas Serv., 98 A.D.3d 168	307A+563	A court has the discretion to dismiss the complaint in the event of a plaintiff's failure to appear. N.Y.Ct.Rules, S 202.27(b).	Does a court have the discretion to dismiss the complaint in the event of a plaintiff's failure to appear?	Pretrial Procedure - Memo # 6778 - C - PB.docx	ROSS-003301959-ROSS-003301960
McClure v. Cty. of Jackson, 185 N.C. App. 462	13+6	Unlike the question of jurisdiction, the issue of mootness is not determined solely by examining facts in existence at the commencement of the action; if the issues before a court become moot at any time during the course of the proceedings, the usual response should be to dismiss the action.	Should an action be dismissed if the issues before the court become moot?	Pretrial Procedure - Memo # 6787 - C - SPB.docx	LEGALEASE-00034463-LEGALEASE-00034464
Cty. of Cameron v. Brown, 80 S.W.3d 549	302+111.48	When a plaintiff fails to plead facts that establish jurisdiction, but the petition does not affirmatively demonstrate incurable defects in jurisdiction, the issue is one of pleading sufficiency and the plaintiff should be afforded the opportunity to amend, but if the pleadings affirmatively negate the existence of jurisdiction, then a plea to the jurisdiction may be granted without allowing the plaintiff an opportunity to amend.	"If the pleadings or record conclusively negate the existence of jurisdiction, should the suit be dismissed?"	034507.docx	LEGALEASE-00144045-LEGALEASE-00144047
Brown v. Brown, 110 Me. 280	307A+746	Dismissal orders for failure to appear at a pretrial conference must be carefully scrutinized, and the plaintiff's conduct must mandate dismissal. (Per Crawley, J., with one Judge concurring and two Judges concurring in the result.) Rules Civ.Proc., Rule 16(f).	Must dismissal orders for failure to appear at a pretrial conference be carefully scrutinized?	034547.docx	LEGALEASE-00143852-LEGALEASE-00143853
Whitman v. Kentucky Cent. Life & Accident Ins. Co., 232 Ky. 173	307A+563	Where party declines to conform to valid court order, trial court may dismiss his case.	"Where party declines to conform to valid court order, can a trial court dismiss his case?"	Pretrial Procedure - Memo # 7104 - C - KA_57778.docx	ROSS-003282771-ROSS-003282772
Acme Markets v. Callanan, 236 Ill. 2d 29	268+956(4)	Purpose of Property Tax Extension Limitation Law (PTELL) is to provide greater citizen control over the levy of taxes they are required to pay. 35 ILCS 200/18-190 (2004 Bar Ed.).	What is the purpose of the Property Tax Extension Limitation Law (PTELL)?	045692.docx	LEGALEASE-00144488-LEGALEASE-00144489
Cohen v. Harrington, 722 A.2d 1191	371+2060	Regardless of the nomenclature used by the General Assembly, it is the nature of a tax itself that determines whether the tax is an excise tax or a property tax.	Does the nature of a tax itself determine whether the tax is an excise tax or a property tax?	045754.docx	LEGALEASE-00144437-LEGALEASE-00144438
United States v. McManigal, 708 F.2d 276	63+1(1)	There is bribery when offer is made with intent that offeree act favorably to offeror even when no particular act is contemplated by offeror or offeree.	Does a particular act need to be contemplated by the offeror or offeree in order for the crime of bribery to be established?	012279.docx	LEGALEASE-00145232-LEGALEASE-00145233

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Evans v. United States, 504 U.S. 255	164T+24(1)	Affirmative act of inducement by public official, such as a demand, was not element of offense of extortion "under color of official right" prohibited by Hobbs Act; government was only required to show that public official obtained payment to which he was not entitled, knowing that payment was made in return for official acts; overruling U.S. v. O'Grady, 742 F.2d 682; U.S. v. Aguon, 851 F.2d 1158. 18 U.S.C.A. S 1951.	"Under bribery statute, to convict a public official, what does a public official need to know when he obtains a payment to which he is not entitled?"	012338.docx	LEGALEASE-00145853-LEGALEASE-00145854
People v. Hinson, 269 Cal. App. 2d 573	67+29	From evidence establishing defendant's unlawful and forcible entry into discount store, burglarious intent could be reasonably and justifiably inferred. West's Ann.Pen.Code, S 459.	Can the intent in the crime of burglary be inferred from unlawful and forcible entry?	012859.docx	LEGALEASE-00145506-LEGALEASE-00145510
People v. Escobar, 7 Cal. App. 4th 1430	110+822(7)	Special jury instruction, that "intent to aid and abet a burglary must be formed prior to or at the time of the entry," when heard in context, could not have been misleading, despite claim that instruction did not make clear that it was perpetrator's entry, not defendant's entry, if any, which determined whether defendant had requisite intent; instruction was preceded by instructions distinguishing between direct perpetrators and aiders and abettors and defining aiders and abettors. West's Ann.Cal.Penal Code S 459.	Does the intent to aid and abet a burglary have to exist prior to entry?	Burglary - Memo 243 - TB.docx	ROSS-003300839-ROSS-003300840
Ex parte Coley, 942 So. 2d 349	135+8	As a general proposition a person can have but one domicile, and when once acquired is presumed to continue until a new one is gained in fact and intent.	Can a person have but one domicile as a general proposition?	10795.docx	LEGALEASE-00094495-LEGALEASE-00094496
Hopkins v. J. E. Foster & Son, 360 S.W.2d 180	95+318	Where letter of commitment provided that lender was to be furnished with a title policy insuring deed of trust as a first lien on the property, without reservation, lender was entitled to have as security a first lien on owner's property, including all minerals, and was not required to honor its commitment where two-thirds of the minerals under owner's land were outstanding in a third person.	Would a conveyance of land without reservations include all minerals and mineral rights?	Mines and Minerals - Memo #224 - C - CSS.docx	ROSS-003288434-ROSS-003288435
Skaw v. United States, 13 Cl. Ct. 7	260+17(1)	For purpose of determining validity of contested mineral claims, mining claim does not create any rights against United States and is not valid unless and until all requirements of mining laws have been satisfied, and one such requirement is actual physical finding of valuable mineral deposit within limits of claim. 30 U.S.C.A. SS 22, 23, 29.	Does a mining claim create any rights against the United States?	021451.docx	LEGALEASE-00146075-LEGALEASE-00146076
Bohatch v. Butler & Binion, 977 S.W.2d 543	46H+158	Partner in law firm can be expelled from partnership for accusing, in good faith, another partner of overbilling without subjecting partnership to tort damages for breach of fiduciary duty.	Can a partner be expelled over disagreements about firm policy?	022471.docx	LEGALEASE-00146374-LEGALEASE-00146375
Hooper v. Yoder, 737 P.2d 852	289+933	Generally, when partners organize corporation to operate business of partnership and transfer assets to corporation, partnership is dissolved. C.R.S. 7-60-131(1)(a)(III).	Is a partnership dissolved when partners organize a corporation to operate the business of the partnership?	022480.docx	LEGALEASE-00146388-LEGALEASE-00146389
Egberts v. Wood, 3 Paige Ch. 517	289+662	One of the partners during the existence of a partnership, may, without the consent of his copartners, make a valid assignment, in the name of the firm, of all or any of the partnership effects directly to a creditor of the firm in payment of his debt.	Can a partner assign the partnership effects in order to give a preference to particular creditors?	022492.docx	LEGALEASE-00146402-LEGALEASE-00146403

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Heckman v. Williamson Cty., 369 S.W.3d 137	78+1333(4)	Named plaintiff in putative class action under S 1983 against county on behalf of indigent criminal defendants who were allegedly deprived of right to court-appointed counsel on misdemeanor charges carrying possible confinement pleaded jurisdictional facts sufficient to establish, for standing purposes, that he suffered from an injury-in-fact at time he sued; plaintiff alleged that he requested court-appointed attorney and provided proof of indigency at his first appearance, that trial court threatened to raise his bond if he did not have attorney at next appearance, and that at time of filing present action he had not been appointed an attorney and charges against him were still pending. U.S.C.A. Const.Amend. 6; 42 U.S.C.A. S 1983.	Should a court dismiss a class action for want of jurisdiction if the named plaintiff entirely lacked individual standing at the time he sued?	Pretrial Procedure - Memo # 5845 - C - VA.docx	ROSS-003301575-ROSS-003301576
McGinley v. McGinley, 170 S.W.2d 938	30+3239	Where case had been continued once at defendant's instance, a further continuance for same causes rested largely in trial court's discretion, whose action would not be interfered with except for obvious abuse. R.S.1939, S 1087.	Will further continuance for same causes rest largely in trial court's discretion?	033160.docx	LEGALEASE-00145637-LEGALEASE-00145638
State ex rel. Bush v. Spurlock, 42 Ohio St. 3d 77	307A+554	Standard of review for dismissal is whether any cause of action cognizable by forum has been raised in complaint. Rules Civ.Proc., Rule 12(B)(1).	"In determining whether a complaint states any cause of action cognizable by forum, must a court be presented with motion to dismiss for lack of subject-matter jurisdiction?"	033196.docx	LEGALEASE-00145210-LEGALEASE-00145211
Polin, U.S.A. v. Walsh, 61 Ohio App. 3d 637	307A+534	Notice requirement provides party opportunity to avoid dismissal but, if party does not act, trial court does not abuse its discretion in dismissing action. Rules Civ.Proc., Rule 41(B)(1).	"Can a trial court, sua sponte, dismiss an action for nonappearance at a pretrial conference?"	034035.docx	LEGALEASE-00145099-LEGALEASE-00145100
McCormick v. Meyer, 582 N.W.2d 141	307A+560	If there is a delay in service, the court must first determine if the delay was presumptively abusive; if the court finds the delay is presumptively abusive, the court must then determine if the plaintiff has shown the delay was justified, and if the delay was not justified, the case must be dismissed.	"If there is a delay in service, should the court first determine if the delay was presumptively abusive?"	034066.docx	LEGALEASE-00145204-LEGALEASE-00145205
Wake Cares v. Wake Cty. Bd. of Educ., 190 N.C. App. 1	307A+552	When a court's determination can have a practical effect on a controversy, the court may not dismiss the case as moot.	When a court's determination can have a practical effect on a controversy will the court dismiss the case as moot?	Pretrial Procedure - Memo # 6978 - C - SB.docx	ROSS-003291447-ROSS-003291448
In re Patton, 47 S.W.3d 825	307A+746	The requirement that sanctions for violations of pre-trial orders must be related to offensive conduct is not met when the party seeking sanctions can show no prejudice due to the offending party's conduct. Vernon's Ann.Texas Rules Civ.Proc., Rule 166.	"For a court-imposed sanction to have a direct relationship with offensive conduct, should the sanction be directed against the abuse and toward remedying the prejudice caused the innocent party?"	034818.docx	LEGALEASE-00145934-LEGALEASE-00145935
Warriner v. Ferraro, 177 So. 2d 723	307A+563	Court has inherent power to impose sanction of dismissal for a failure to comply with a court order. 30 F.S.A. Rules of Civil Procedure, rule 1.35(b).	Does a court have inherent power to impose sanction of dismissal for a failure to comply with a court order?	Pretrial Procedure - Memo # 7004 - C - SB.docx	ROSS-003289943-ROSS-003289944
Pressey v. State, 114 N.W.2d 518	307A+563	Courts have inherent power to dismiss action for disobedience of authorized court order regardless of statutory authority.	Do courts have inherent power to dismiss action for disobedience of a court order?	035188.docx	LEGALEASE-00145742-LEGALEASE-00145743
Scarcia v. U.S. Gypsum Co., 164 Misc. 825	307A+552	A complaint may be dismissed on motion where litigation is vexatious and clearly without merit.	Will a complaint be dismissed upon motion where the litigation is vexatious and clearly without merit?	Pretrial Procedure - Memo # 7386 - C - BP.docx	ROSS-003290055-ROSS-003290056
Clark v. State Farm Mut. Auto. Ins. Co., 769 So. 2d 176	307A+683	Any reasonable doubt about abandonment should be resolved in favor of allowing the prosecution of the claim and against dismissal for abandonment.	"Because dismissal is the harshest of remedies, should any reasonable doubt about abandonment of the suit should be resolved in favor of allowing the prosecution?"	035473.docx	LEGALEASE-00145916-LEGALEASE-00145917

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Vaughan v. Swift Transp. Co., 14-208 (La. App. 5 Cir. 10/29/14), 164 So. 3d 235	13+70	Motions to withdraw, enroll or substitute counsel are not considered formal "steps" in the prosecution or defense of an action, within the meaning of the abandonment statute, because such motions grant to counsel the right to take steps, or to prepare to take steps, toward the prosecution or defense of a case, but are not considered steps, because they do not hasten the matter to judgment. LSA-C.C.P. art. 561.	Is a motion to enroll as counsel of record not a step in the prosecution of a case?	035528.docx	LEGALEASE-00146048- LEGALEASE-00146049
State ex rel. Owen v. Donald, 160 Wis. 21	371+2100	The language of the constitution as to state taxation, though, in form, a grant of power, is, in fact, a limitation thereof. It must be read in the light of the rule peculiarly adaptable to the construction of such constitutional provisions, Expressio unius exclusio alterius.	Is the language of the Constitution as to state taxation a limitation of power?	045875.docx	LEGALEASE-00146295- LEGALEASE-00146296
Graf v. Whitaker, 192 Ariz. 403	307A+563	Courts have power to control proceedings before them and enter orders of default or dismissal when party fails to abide by procedural rules of court.	Do courts have the power to control proceedings before them?	Pretrial Procedure - Memo # 7061 - C - SU_58315.docx	ROSS-003282965-ROSS-003282966
United States v. Reiser, 394 F. Supp. 1060	34+20.4(1)	All citizens, male or female, must be subject to military draft on an equal basis. Military Selective Service Act, SS 1(c), 3, 4, 12, 50 U.S.C.A. App. SS 451(c), 453, 454, 462; U.S.C.A.Const. Amends. 5, 14.	"Must all citizens, male or female, be subject to military draft on an equal basis?"	Armed Services - Memo 291 - JK_57599.docx	ROSS-003278797-ROSS-003278798
Dodd v. United States, 76 F. Supp. 991	34+77(5)	Beneficiaries, whether designated or not, have no vested rights in national service life insurance and an insured may change beneficiaries at any time without the consent or knowledge of previous beneficiaries, and Congress may enlarge the permissible classes as it chooses. National Life Insurance Act of 1940, SS 601, 602(g), (h) (3), 38 U.S.C.A. SS 801, 802(g), (h) (3).	"Do beneficiaries, whether designated or not, have vested rights in National Service Life Insurance?"	008721.docx	LEGALEASE-00148030- LEGALEASE-00148031
Madden v. United States, 18 F. Supp. 534	34+58(5)	Congress may make retroactive changes in war risk insurance contract and alter rights that would ordinarily be deemed vested.	Does congress have power to make retrospective changes in an insurance contract?	Armed Services - Memo 298 - RK_57606.docx	ROSS-003295282
In re Involuntary Dissolution of Battle Creek State Bank, 254 Neb. 120	172H+202	Banking corporations are quasi-public institutions in the sense that whole stream of commerce, whether interstate or intrastate, largely depends upon their existence.	Does a bank possess a quasi-public character?	07068.docx	LEGALEASE-00089127- LEGALEASE-00089129
Stuckey v. State, 141 Md. App. 143	63+1(1)	Whether public servant was actually controlled or influenced is irrelevant to bribery offense, so long as payment was accepted or solicited with the intent to control the public servant. West's A.I.C. 35-44-1-1.	Does a bribery conviction require the prosecution to prove that the public official was actually influenced or controlled?	10782.docx	LEGALEASE-00094366- LEGALEASE-00094367
United States v. Yonan, 623 F. Supp. 881	319H+50	Just as enterprise itself must amount to more than sheer pattern of racketeering activity, for purposes of Racketeer Influenced and Corrupt Organizations Act (18 U.S.C.A. S 1962(c)), one does not "associate with" enterprise by committing crimes against it.	"For purposes of RICO, can someone ""associate with"" an enterprise by committing crimes against it?"	09976.docx	LEGALEASE-00095648- LEGALEASE-00095649
United States v. Madeoy, 912 F.2d 1486	63+1(2)	Rule of lenity did not require interpretation of bribery statute defining public official to mean that VA fee appraiser was not public official in prosecution for bribery; Congress's intent was sufficiently clear and there was no need to resort to rule of lenity where VA fee appraiser clearly within definition of "public official." 18 U.S.C.A. S 201(a)(1).	Is a fee appraiser considered aa a public official within the context of a bribery prosecution?	012424.docx	LEGALEASE-00148042- LEGALEASE-00148043

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Haley v. City of Rapid City, 269 N.W.2d 398	200+68	A public way, having once been lawfully established, can be vacated or abandoned only by some lawful method, and burden of proof is on one obstructing a lawfully established public way to show vacation or abandonment.	How does vacation or abandonment of a legally established public way occur?	10803.docx	LEGALEASE-00094195- LEGALEASE-00094196
Searcy v. Hemet Unified Sch. Dist., 177 Cal. App. 3d 792	302+14	Facts ascertainable from public record may not properly be plead on information and belief.	Can facts that are ascertainable from public records properly be pleaded on information and belief?	Pleading - Memo 446 - RMM_57495.docx	ROSS-003293450-ROSS-003293451
Orgain v. Butler, 478 S.W.2d 610	302+398	For a variance between pleadings and proof to be fatal, the variance must be substantial, misleading, and a prejudicial departure.	"Must a variance between pleadings and proof be substantial, misleading and prejudicial for it to be fatal?"	023577.docx	LEGALEASE-00147523- LEGALEASE-00147524
Atkins v. Fischer, 232 F.R.D. 116	170A+2757	Court's inherent power to sanction litigation misconduct encompasses power to sanction attorney or party misconduct, and includes power to enter default judgment.	"Do courts possess the inherent authority to sanction litigants and their counsel, including the power to dismiss an action?"	10905.docx	LEGALEASE-00094341- LEGALEASE-00094342
Sandholm v. Kuecker, 2012 IL 111443	307A+686.1	A motion to dismiss based upon certain defects or defenses admits the legal sufficiency of the plaintiff's claim but asserts certain defects or defenses outside the pleadings which defeat the claim. S.H.A. 735 ILCS 5/2-619(a).	Can a motion to dismiss allege defects on the face of the complaint?	10939.docx	LEGALEASE-00094279- LEGALEASE-00094280
Williams v. Gaffin Indus. Servs., 88 So. 3d 1027	307A+681	Trial court erred in dismissing employee's estate's complaint, alleging intentional harm, based on the doctrine of election of remedies, available under workers' compensation law, because court considered disputed matters outside the four corners of the complaint; facts relied upon by employer in support of its election of remedies defense did not appear on the face of the complaint or in any attachments to the complaint, and instead, they were supplied by employer through various documents and an affidavit filed in support of its motion to dismiss.	Could the cause be subject to dismissal if the court is required to consider matters outside the four corners of the complaint?	11084.docx	LEGALEASE-00094339- LEGALEASE-00094340
Czarobski v. Lata, 227 Ill. 2d 364	307A+561.1	A motion for involuntary dismissal based upon certain defects or defenses admits the legal sufficiency of the plaintiff's claim but asserts affirmative matter outside of the pleading that defeats the claim. S.H.A. 735 ILCS 5/2-619(a)(9).	"Is a dismissal for failure to establish good cause for service of the summons and complaint within six months after filing the complaint, equivalent to a failure to prosecute?"	11261.docx	LEGALEASE-00094795- LEGALEASE-00094796
Jameson Realty Grp. v. Kostiner, 351 Ill. App. 3d 416	307A+562	The defense of laches may be considered on a motion to dismiss a complaint if its applicability appears from the face of the complaint or by affidavit submitted with the motion.	Can defenses be considered on motion to dismiss a complaint?	Pretrial Procedure - Memo # 7811 - C - NS_57829.docx	ROSS-003280107-ROSS-003280108
Lai Chan v. Chinese-Am. Planning Council Home Attendant Program, 180 F. Supp. 3d 236	231H+1549(11)	Employees' wage-related claims under New York law and Fair Labor Standards Act (FLSA) against employer fell within scope of arbitration provision in collective bargaining agreement (CBA) between employees' bargaining representative and employer, which required that all wage and hour-related claims be submitted to arbitration, even though claims accrued prior to execution of modified CBA which added arbitration provision, where arbitration provision did not contain provision placing temporal limitation on arbitrability. Fair Labor Standards Act of 1938 S 6, 29 U.S.C.A. S 206.	Can an arbitration provision cover claims that accrued prior to the execution of the agreement to arbitrate?	Alternative Dispute Resolution - Memo 754 - RK.docx	LEGALEASE-00037860- LEGALEASE-00037861
Indus. Trades Union of Am. v. Dunn Worsted Mills, 131 F. Supp. 945	358+80	At common law, submission to arbitration cannot be specifically enforced and either party to submission may revoke it at any time before award is made.	Can submission to arbitration be specifically enforced?	Alternative Dispute Resolution - Memo 791 - RK_58124.docx	ROSS-003296008-ROSS-003296009

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Rutledge v. United States, 72 F. Supp. 352	34+63	As respects National Service Insurance the courts should give effect to the wishes and intentions of the men in service if it is reasonably possible to do so from the available evidence since compliance with the rigid forms of ordinary life insurance is not required if the intention is made certain and affirmative action is taken to express it.	Is it the duty of the courts to give effect to the wishes and intentions of the insured?	008762.docx	LEGALEASE-00148824-LEGALEASE-00148825
Unlimited Adjusting Grp. v. Wells Fargo Bank, N.A., 174 Cal. App. 4th 883	83E+406	The intended payee of a check may negotiate the check by indorsing it and depositing it in his or her bank account.	Can the intended payee negotiate a check by indorsing it and depositing it in bank account?	010404.docx	LEGALEASE-00148638-LEGALEASE-00148639
Seufert v. Gille, 131 S.W. 102	289+973	Where, in an action on a note executed in the name of a firm by a partner V. after dissolution, the issue was whether his copartner G. had by his course of conduct clothed V. with apparent authority to sign the note, and G. admitted that he knew that V. had borrowed money of plaintiff, and that he himself, had agreed with V. that the latter should pay the partnership debts, and V. testified that he had told G. that money had been borrowed from plaintiff, and that G. had said on one occasion that he would like to see plaintiff paid, evidence that G. had borrowed money from plaintiff in the name of the firm after the dissolution of the firm, and that the note sued on was in renewal of notes evidencing such indebtedness, was admissible to establish G.'s implied assent to V.'s attempt to bind the firm on the note sued on.	Can a partner execute a note in the name of the firm after its dissolution by renewal of the note of the firm to bind other partners or the firm?	Bills and Notes- Memo 464-IS_57875.docx	ROSS-003278362-ROSS-003278363
Farrar v. Gilman, 19 Me. 440	83E+815	The indorsement of negotiable paper belonging to a bank by a cashier is prima facie evidence of a legal transfer of such paper.	Is an indorsement prima facie evidence of a legal transfer of a negotiable note?	010418.docx	LEGALEASE-00148444-LEGALEASE-00148445
Brock v. Lueth, 141 Neb. 545	8.30E+186	Where memorandum on back of note is made by agreement of parties before signing, the memorandum is a part of the note and is binding on all of the parties to the note.	Is memorandum at back of note made by agreement of parties before signing is binding on all the parties?	010514.docx	LEGALEASE-00148067-LEGALEASE-00148068
First Nat. Bank v. Lock-Stitch Fence Co., 24 F. 221	83E+456	A third party who places his name upon the back of a negotiable promissory note at the time of its execution by the maker, and before its delivery to the payee, will be liable as a joint maker; and the note itself, with the indorsement thereon, is prima facie evidence of such liability.	Can third person indorsing be liable as a joint maker?	010581.docx	LEGALEASE-00148580-LEGALEASE-00148581
In re Mayfield, 39 B.R. 900	83E+406	When transfer of promissory note is for value, transferee acquires transferor's rights; transferee becomes owner if transferor was owner, but holds instruments subject to all defenses and equities enforceable against transferor.	Does the transferee become the owner subject to all defenses enforceable against the transferor?	Bills and Notes- Memo 674-PR_57904.docx	ROSS-003308823-ROSS-003308824
State v. Schenkolewski, 301 N.J. Super. 115	63+1(1)	Neither offeror nor the recipient of bribe need be public official to prove bribery, and it is sufficient if recipient created understanding with offeror that he could influence matters in connection with official duty, whether or not he was capable of actually effecting such an act. N.J.S.A. 2C:27-2.	"In a bribery case, is it possible that neither the offeror nor the recipient of the bribe is a public official?"	Bribery - Memo #980 - C-JL_57946.docx	ROSS-003294420-ROSS-003294421
Pariani v. State of California, 105 Cal. App. 3d 923	260+4	Any doubt concerning scope of State's mineral reservation in a grant must be resolved in favor of State. West's Ann.Civ.Code, S 1069.	"If there is any doubt concerning the scope of the State's reservation of mineral rights, must it be resolved in favor of the state?"	021195.docx	LEGALEASE-00148296-LEGALEASE-00148297

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Benge v. Scharbauer, 152 Tex. 447	260+55(4)	An instrument may convey two separate estates in minerals, one of which may be a full mineral interest and the other a royalty or other interest in minerals.	Could an instrument convey two separate estates in the minerals?	021511.docx	LEGALEASE-00148556- LEGALEASE-00148557
The L'Invincible, 14 U.S. 238	221+213	Although the hull or the owners of a privateer may under some circumstances be subject to damages in a neutral court after the courts of the captor have decided that the capture was not sanctioned by his sovereign, the seizure by private armed vessel, until such decision, is as much the act of the sovereign and entitled to same exemption from scrutiny as the seizure by a national vessel.	Is there any distinction in the scrutiny of a public or national vessel and a private armed vessel?	021745.docx	LEGALEASE-00148490- LEGALEASE-00148491
Bank & Tr. Co. of Arlington Heights v. Arnold N. May Builders, 90 Ill. App. 3d 454	302+350(4)	Motion for judgment on the pleadings tests sufficiency of pleadings as a matter of law and admits truth of all facts pleaded by opposite party.	Does a motion for judgment on the pleadings test the sufficiency of the pleadings?	023614.docx	LEGALEASE-00148727- LEGALEASE-00148728
Am. Int'l Grp. v. ACE INA Holdings, 722 F. Supp. 2d 948	308+183(3)	Under New York law, principal can assert claim for fraud based on misrepresentations made to its agent.	Can a principal assert claim for misrepresentations made to its agent?	Principal and Agent - Memo 135 - KC_58049.docx	ROSS-003284478
Eisler v. United States, 170 F.2d 273	34+20.4(2)	Alien resident may be required to contribute to support of United States, and may lawfully be inducted for national defense service in time of war.	Can an alien be called to serve in the defense of the country?	Aliens_Immigration and_1iM0m1YPIwjacygQt kYx8t6iWccFzXu_e.docx	ROSS-000000294-ROSS- 000000295
Burns v. Neiman Marcus Grp., 173 Cal. App. 4th 479	8.30E+27	A "check" is simply an order to the drawee bank to pay the sum stated, signed by the maker and payable on demand. West's Ann.Cal.Com.Code S 3103.	Is check merely an order to pay the sum which has been stated?	009653.docx	LEGALEASE-00149645- LEGALEASE-00149646
Wilmington Tr. Co. v. Delaware Auto Sales, 271 A.2d 41	172H+786	Where defendant bank received stop payment order from its depositor before it issued treasurer's check to plaintiff automobile dealer in exchange for depositor's check, bank had no right to charge depositor's account, complete failure of consideration for treasurer's check resulted, and bank had right to refuse to honor it when presented by the dealer. 5A Del.C. SS 3-305, 3-306(c).	Does the bank have the right to refuse to honor a check presented by the payee?	010530.docx	LEGALEASE-00149515- LEGALEASE-00149516
Kain v. Walke, 12 Ala. 184	83E+496	The death and insolvency of the maker of a note is a sufficient excuse for the failure of the assignee to prosecute a suit against him to judgment, execution, and a return of "No property found."	Can insolvency of the maker of a note a sufficient excuse?	Bills and Notes- Memo 723-ANM_58227.docx	ROSS-003292838

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Dillard v. Thomasville Auto Sales, 221 F. Supp. 3d 677	172H+1344	Car dealership's used car loan disclosure form, on which payment amount and dates were slightly misaligned, such that number of payments, amount of payments, and dates of first and last payments were printed on line separating rows, was sufficiently clear to satisfy dealership's obligation under Truth-in-Lending Act (TILA) to disclose the number, amount, and due dates or period of payments scheduled to repay the total of payments; no reasonable consumer could have construed form as requiring first 19 payments to be made weekly, with the final monthly payment to be made 15 months later, and only plausible interpretation was that two lines in question belonged in rows in which characters' lower halves sat, such that first 19 payments were to be made monthly beginning one month after closing. Truth in Lending Act S 128, 15 U.S.C.A. S 1638(a)(6); 12 C.F.R. S 226.18(g).	Is a creditor required to disclose the number and amount of payments under the federal law?	013931.docx	LEGALEASE-00149533-LEGALEASE-00149534
Succession of Valdez, 44 So. 2d 151	156+55	A person cannot be estopped by his declarations even if of a judicial character if they have neither deceived nor damaged any one.	"Is a person estopped by his judicial declarations, which have neither deceived nor damaged any one?"	017728.docx	LEGALEASE-00149068-LEGALEASE-00149069
Hatch's Estate v. C.I.R., 198 F.2d 26	220+3933.1	For income tax purposes, sale of partnership interest in going concern should be treated as sale of capital asset, if the transaction in substance and effect, as distinguished from form and appearance, is essentially the sale of a partnership interest. 26 U.S.C.A. (I.R.C.1954) S 1202.	Is the sale of a partnership asset to be treated as a sale of capital asset?	022554.docx	LEGALEASE-00149893-LEGALEASE-00149894
Cole v. O'Tooles of Utica, 222 A.D.2d 88	302+4	Plaintiffs need not label cause of action in pleading, and in fact, even if cause of action is labeled incorrectly, it will not be dismissed if acts alleged constitute cognizable cause of action.	Do plaintiffs need to label a cause of action?	036358.docx	LEGALEASE-00149233-LEGALEASE-00149234
Bergeron v. Roszkowski, 866 A.2d 1230	307A+683	On a motion to dismiss based on failure to prosecute, although the trial court must weigh the equities between the parties, it need not view the evidence in a light most favorable to the plaintiffs.	Is mere delay enough to warrant dismissal for lack of prosecution?	036476.docx	LEGALEASE-00149185-LEGALEASE-00149186
Minnesota Humane Soc. v. Minnesota Federated Humane Societies, 611 N.W.2d 587	307A+581	Although a court might sanction a party for conduct in settlement negotiations, the court cannot dismiss a case for refusal to settle.	Can the court dismiss a case for refusal to settle?	Pretrial Procedure - Memo # 8199 - C - RY_58774.docx	ROSS-003280925-ROSS-003280926
A. Gay Jenson Farms Co. v. Cargill, 309 N.W.2d 285	308+1	"Agency" is the fiduciary relationship that results from manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act.	Is consent important to form agency relationship?	Principal and Agent - Memo 146 - KC_58560.docx	ROSS-003282580-ROSS-003282581
Towell v. Steger, 154 S.W.3d 471	3.77E+05	Stalking statutes should be construed narrowly enough to prevent serious abuse, but broadly enough to maximize victim protection. V.A.M.S. S 455.010.	Should stalking statutes be construed narrowly or broadly?	"Threats, Stalking, and Harassment - Memo #3 - C - LB_58576.docx"	ROSS-003282953-ROSS-003282955
Campion v. Bd. of Aldermen of City of New Haven, 278 Conn. 500	414+1202	Zoning regulations are local legislative enactments and, therefore, their interpretation is governed by the same principles that apply to the construction of statutes.	Can the enactment of local zoning regulations be considered a legislative function?	Zoning and Planning - Memo 6 - RM_62208.docx	ROSS-003294609-ROSS-003294610

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Jones v. Madison Cty. Comm'rs, 137 N.C. 579	104+24	Const. art. 7, S 7, declares that no county shall contract any debt, pledge its faith, or loan its credit, and that no tax shall be levied, except for the necessary expenses thereof, unless by a vote of a majority of the qualified voters; and section 14 provides that the General Assembly shall have power by statute to modify, change, or abrogate any and all of the provisions of article 7, except sections 7, 9, and 13-section 9 requiring uniform taxation, and section 13 relating to debts of the Confederate government. Held, that Laws 1903, p. 490, c. 289, requiring the funding of the floating indebtedness and the refunding of certain bonds of Madison county, and requiring the laying of a tax for the payment of the bonds, is not in excess of the legislative authority, though the county offices are created by Const. art. 7; the debts in question having been for necessary expenses, and the Legislature, except as limited, having power to supervise and control the action of county officers in governmental matters. Judgment (1904) 47 S.E. 753, 135 N.C. 218, reversed on rehearing.	Does the legislature have power to compel a county to levy a tax for road purposes?	Highways -Memo 276 - DB.docx	LEGALEASE-00039984- LEGALEASE-00039985
Don Shevey & Spires v. Am. Motors Realty Corp., 279 S.C. 58	307A+581	Plaintiff has burden of prosecuting his action, and the trial court may properly dismiss action for plaintiff's unreasonable neglect in proceeding with his cause.	Does a plaintiff have the burden of prosecuting their action?	037007.docx	LEGALEASE-00150369- LEGALEASE-00150370
Hoover v. Mercy Health, 2012 WL 2549485	302+8(1)	A conclusion in a petition must be supported by factual allegations that provide the basis for that conclusion, that is, facts that demonstrate how or why the conclusion is reached; if a petition fails to state a claim upon which relief can be granted, the trial court may properly order it to be dismissed, regardless of whether the order is treated as a summary judgment or as an order pursuant to a motion to dismiss. (Per Kathianne Knaup Crane, P.J., with one judge concurring and one judge dissenting.)	Should a conclusion in a petition be supported by factual allegations that provide the basis for that conclusion?	037424.docx	LEGALEASE-00150661- LEGALEASE-00150663
People ex rel. Griffin v. City of Brooklyn, 4 N.Y. 419	371+2415	The power to tax implies a power to apportion the tax as the legislature shall see fit, and the power of apportionment has no limit where there is no constitutional restraint.	Is the power to tax limited by constitutional restraint?	045960.docx	LEGALEASE-00150554- LEGALEASE-00150555
Ryan's Family Steakhouse v. Kilpatric, 966 So. 2d 273	25T+182(2)	Both delay and the extent of the moving party's participation in judicial proceedings are material factors in assessing a plea of prejudice resulting in a waiver of a right to arbitration.	What are the material factors involved in assessing a plea of prejudice?	Alternative Dispute Resolution - Memo 793 - RK_59478.docx	ROSS-003292376-ROSS-003292378
Sweater Bee by Banff, Ltd. v. Manhattan Indus., 754 F.2d 457	25T+182(2)	Litigation of substantial issues going to merits may constitute waiver of arbitration.	Does litigation of substantial issues going to the merits constitute a waiver of arbitration?	007925.docx	LEGALEASE-00151388- LEGALEASE-00151389
The Belize, 25 F. Supp. 663	25T+182(2)	Where party who has agreed to arbitrate a controversy that may arise takes controversy to court in ordinary way, and other party files an answer on the merits, thereby joining with first party in rejecting arbitration and tendering controversy to court, one party is not thereafter entitled to resort to arbitration over protest of other.	Does there come a time in litigation where it is unfair to permit one side to resort to arbitration over the protest of the other?	Alternative Dispute Resolution - Memo 798 - RK_59483.docx	ROSS-003279938-ROSS-003279939

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Hibernia Bank & Tr. Co. v. Dresser, 132 La. 532	83E+334	Under Negotiable Instrument Law, S 5, an instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable.	Is an instrument which contains an order to do any act in addition to the payment of money negotiable?	010778.docx	LEGALEASE-00151226-LEGALEASE-00151227
Hibernia Bank & Tr. Co. v. Dresser, 132 La. 532	83E+334	Under Negotiable Instrument Law, S 5, an instrument which contains an order or promise to do any act in addition to the payment of money is not negotiable.	Is an instrument which contains promise to do any act in addition to the payment of money is negotiable?	Bills and Notes-Memo 1117-IS_59399.docx	ROSS-003280716-ROSS-003280717
Sterling & Snapp v. Bender, 7 Ark. 201	83E+426	A bill or note indorsed in blank is transferable by delivery only, and so long as the indorsement continues in blank, it makes the bill or note in effect payable to bearer.	Can a bill indorsed or endorsed in blank be transferred by delivery?	Bills and Notes-Memo 1153-PR_59418.docx	ROSS-003299109
Derico v. Duncan, 410 So. 2d 27	172H+114	Contracts made in violation of requirements of Mini-Code regarding consumer finance are null, void and unenforceable as matter of public policy. Code 1975, S 5-19-1 et seq.	Are contracts made in violation of mini-code requirements unenforceable?	013670.docx	LEGALEASE-00150856-LEGALEASE-00150857
Butler Cty. Dairy v. Butler Cty., 285 Neb. 408	200+88	Statutory provision that granted electors of a township the power "to prevent the exposure or deposit of offensive or injurious substances within the limits of the town" vested township with specific authority to prohibit liquid livestock waste pipelines from being constructed on, over, or under township roads; liquid livestock waste constituted an offensive and potentially injurious pollutant which was required by statute to be managed in a manner that was environmentally acceptable. West's Neb.Rev.St. SS 23-224(6), 54-2416, et seq.; Neb.Admin.R. & Regs. tit. 130.	Are the townships authorized to raise money for constructing roads within the township?	Highways -Memo 381 - DB_59252.docx	ROSS-003319044-ROSS-003319045
Dang v. Smith, 190 Cal. App. 4th 646	302+21	Because a pleader's original allegation is conclusively deemed true, the pleader is not permitted to assert its logical opposite.	Is the pleader permitted to assert the logical opposite of the original allegation?	022901.docx	LEGALEASE-00151377-LEGALEASE-00151378
British Am. & E. Co. v. Wirth Ltd., 592 F.2d 75	308+92(1)	An agent serves under the control and supervision of his principal; so long as he acts within the ambit of his authority to represent his principal, he binds the principal.	Does an agent serve under the control and supervision of his principal?	Principal and Agent - Memo 191 - KC_59472.docx	ROSS-003280467-ROSS-003280468
Forest Guardians v. Animal & Plant Health Inspection Serv., 309 F.3d 1141	411+7	The Forest Service Manual does not have the force of law and does not bind the agency and is therefore not entitled to deference.	Is the Forest Service Manual entitled to deference and has the force of law?	047548.docx	LEGALEASE-00151056-LEGALEASE-00151057
Lamb v. Thompson, 265 F.3d 1038	411+7	Reviewing court must give Forest Service's interpretations of its own regulations controlling weight unless they are plainly erroneous or inconsistent with the regulations.	Do the Forest Service's interpretations of Forest Plan control its regulations?	047552.docx	LEGALEASE-00151146-LEGALEASE-00151147

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Haskins v. Prudential Ins. Co. of Am., 230 F.3d 231	25T+420	Employee of financial services firm would be required to arbitrate his race and age discrimination claims against firm pursuant to arbitration agreement he had entered into with securities dealers' association, which provided for arbitration of any dispute between employee and firm that was required to be arbitrated under rules of organizations with which employee registered, and which contained two acknowledgements that employee understood contents of agreement, even though agreement did not specifically delineate claims subject to arbitration, firm did not provide employee with copy of association's arbitration rules, and none of firm's agents discussed arbitration clause with employee. Civil Rights Act of 1964, S 701 et seq., as amended, 42 U.S.C.A. S 2000e et seq.; Age Discrimination in Employment Act of 1967, S 2 et seq., 29 U.S.C.A. S 621 et seq.	"If an employer failed to provide copy of the applicable exchange organizations rules, is the signing party on notice that his claims could have been subject to arbitration?"	007993.docx	LEGALEASE-00151456- LEGALEASE-00151457
Am. Reliable Ins. Co. v. Arrington, 269 F. Supp. 2d 758	118A+46	Federal court will not apply first-to-file rule, and dismiss lawsuit in favor of lawsuit raising substantially similar issues that was previously filed in another federal court, where plaintiff in this other suit has raised these similar issues by means of request for declaratory relief in anticipation of subsequent lawsuit.	Is there an exception to the first filed rule when a plaintiff files suit for declaratory relief in anticipation of a lawsuit to be filed by the defendant?	Alternative Dispute Resolution - Memo 844 - RK_59529.docx	ROSS-003296288-ROSS-003296289
Faiaz v. Colgate Univ., 64 F. Supp. 3d 336	141E+1166	Under New York law, implied contract is formed when university accepts student for enrollment; if student complies with university's terms and completes required courses, university must award that student a degree.	An implied contract is formed when the university accepts the student for enrollment?	Education - Memo # 202 - C - KS_60317.docx	ROSS-003292201-ROSS-003292202
Barrett v. Dodge, 16 R.I. 740	8.30E+10	If no particular place of payment is specified in a note, the law of the place of contract governs as to the obligation and duty imposed on the maker.	Which law governs a note where no particular place of payment is specified?	Bills and Notes - Memo 862 - RK_59543.docx	ROSS-003295476-ROSS-003295477
Thrall v. Newell, 19 Vt. 202	95+82	The defendant executed to the plaintiff a written assignment in these words: "I hereby assign to R., a note in my favor against W. and H. dated 13th Nov., 1838, for one hundred and fifty dollars, payable in one year from date, with use, for value received." Held, that the words "for value received" were not merely descriptive of the note assigned, but that, prima facie at least, they imported a sufficient legal consideration for the assignment.	Are the words for value received forming a part of the contract of assignment prima facie evidence of consideration for the assignment?	Bills and Notes - Memo 871 - RK_59552.docx	ROSS-003293254-ROSS-003293255
Purifoy v. Teasley, 188 Ala. 416	296+10	A widow who is drawing a pension under Gen.Acts 1911, p. 690, is a pensioner within section 27, authorizing the payment of the warrant to the children of the pensioner, or the collection by the probate judge and use in paying the expenses of the pensioner's burial and last illness.	Can a widow be a pensioner?	022879.docx	LEGALEASE-00151562- LEGALEASE-00151563
Helms v. Alabama Pension Comm'n, 231 Ala. 183	296+12	"Purposely" within statute providing that no applicant for pension who has been purposely stricken from pension rolls shall be entitled to back pay must be given ordinarily accepted meaning of with deliberate intent or express purpose; on purpose; intentionally; designedly; expressly. Code 1928, S 2971.	"Can an applicant for pension, who has been purposely stricken from pension rolls, be entitled to back pay?"	022887.docx	LEGALEASE-00151576- LEGALEASE-00151577

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Wilson v. Cty. of Orange, 881 So. 2d 625	307A+561.1	Dismissal should not be granted on the basis of an affirmative defense, except when the face of the complaint is sufficient to demonstrate the existence of that defense.	Would the face of the complaint be sufficient to demonstrate the existence of that defense?	Pretrial Procedure - Memo # 8613 - C - DA_59685.docx	ROSS-003282849-ROSS-003282850
21st Amendment v. Indiana Alcohol & Tobacco Comm'n, 84 N.E.3d 691	307A+622	A motion to dismiss tests the legal sufficiency of a claim, rather than the facts that support it. Ind. R. Trial P. 12(B)(6).	"Does a motion to dismiss test the legal sufficiency of the claim, not the facts that support it?"	037738.docx	LEGALEASE-00151803-LEGALEASE-00151804
Wright v. Wright, 567 S.W.2d 371	8.30E+210	As a matter of general law, there may be a presumption that comakers of promissory note, in absence of evidence to the contrary, are equally liable; bills and notes, however, do not necessarily express entire agreement between ostensible comakers.	Are comakers of a promissory note equally liable?	Bills and Notes - Memo 783 -KC_60013.docx	ROSS-003323318-ROSS-003323319
Packer v. Roberts, 140 Ill. 9	83E+481	Note cannot be assigned by separate instrument, and where payee has by deed of assignment, duly assigned all his property, legal title to note is not thereby transferred to assignee so as to preclude payee from suing thereon in his own name for use of assignee.	Can a note be assigned by a separate instrument without indorsement so as to vest a legal title in an assignee?	009929.docx	LEGALEASE-00151861-LEGALEASE-00151862
Wells Fargo Bank, NA v. Ostiguy, 127 A.D.3d 1375	266+1749	Holder status, as required for standing to pursue foreclosure action, is established where the plaintiff possesses a note that, on its face or by allonge, contains an indorsement in blank or bears a special indorsement payable to the order of the plaintiff. McKinney's Uniform Commercial Code S 3-301.	Who can be a holder of a note?	010046.docx	LEGALEASE-00152384-LEGALEASE-00152385
Farrar v. Gilman, 19 Me. 440	83E+815	The indorsement of negotiable paper belonging to a bank by a cashier is prima facie evidence of a legal transfer of such paper.	"When a cashier of the bank or confidential officer endorses a note, is it prima facie evidence of legal transfer?"	010772.docx	LEGALEASE-00152491-LEGALEASE-00152492
Sterling & Snapp v. Bender, 7 Ark. 201	83E+426	A bill or note indorsed in blank is transferable by delivery only, and so long as the indorsement continues in blank, it makes the bill or note in effect payable to bearer.	Can a note indorsed in blank be transferred by delivery?	010809.docx	LEGALEASE-00151873-LEGALEASE-00151874
In re Lee, 408 B.R. 893	83E+426	If an indorsement does not specify a payee, it constitutes a "blank indorsement," as defined in the California Commercial Code (CCC), which makes the note payable to whoever is the bearer of the note. West's Ann.Cal.Com.Code S 3205(b).	"If an indorsement does not specify a payee or indorsee, is it a blank indorsement?"	Bills and Notes-Memo 1177-ANM_60974.docx	ROSS-003282611-ROSS-003282612
Moody v. Lindsey, 202 Va. 1	200+79.2	Generally, nonuser will not operate to discontinue a legally established highway, unless coupled with affirmative evidence of an intent to abandon, especially where there is no use of premises adverse to right of public. Acts 1904, c. 106, SS 2, 3 as amended by Acts 1908, c. 280, and S 9.	Does nonuse operate as abandonment of a highway?	018678.docx	LEGALEASE-00152497-LEGALEASE-00152498
Lindstrom v. Arnold, 421 So.2d 1178	48A+173(2)	There was no violation by motorist of statute prohibiting parking or stopping on highways outside of residential or business districts where her vehicle was stopped on the highway because it was disabled. LSA-R.S. 32:141, subds. A, B.	Is there a violation if a disabled vehicle is stopped on highway?	018911.docx	LEGALEASE-00152055-LEGALEASE-00152056
Cascardo v. Snitow Kanfer Holtzer & Millus, LLP, 100 A.D.3d 674	307A+679	Motion to dismiss for failure to state a cause of action should be granted where, even viewing the allegations as true, the plaintiff cannot establish a cause of action. McKinney's CPLR 3211(a)(7).	When should a motion to dismiss for failure to state a cause of action be granted?	037547.docx	LEGALEASE-00152307-LEGALEASE-00152308
Marshall v. Burger King Corp., 222 Ill. 2d 422	272+1692	Whether a duty exists in a particular case is a question of law for the court to decide.	Does a duty that exists in a particular case a question of law for the court to decide?	Pretrial Procedure - Memo # 8722 - C - NS_60240.docx	ROSS-003322895-ROSS-003322896

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Adams v. USAA Cas. Ins. Co., 317 S.W.3d 66	307A+680	Determination of factual questions or whether the party is entitled to relief on the merits is not appropriate on a motion to dismiss.	Is a court's determination of factual questions not appropriate on a motion to dismiss?	037700.docx	LEGALEASE-00152006-LEGALEASE-00152007
Spence v. Cherian, 135 A.3d 1282	307A+622	Court should dismiss a claim if a third-party plaintiff fails to plead, or cannot make out on the facts pleaded, an essential element of that claim, and if a plaintiff could not have originally sued the third-party defendant on a given claim, the claim against the third-party defendant also must be dismissed.	Should a court dismiss a claim if a plaintiff fails to plead?	Pretrial Procedure - Memo # 8848 - C - KG_59846.docx	ROSS-003320834-ROSS-003320835
Boca Burger v. Forum, 912 So. 2d 561	307A+561.1	A defendant may, at its option, raise any affirmative defense, including the defense of federal preemption, in a motion to dismiss. West's F.S.A. RCP Rule 1.140(b).	Can a defendant raise any affirmative defense in a motion to dismiss?	037868.docx	LEGALEASE-00152146-LEGALEASE-00152147
Seetransport Wiking Trader Schiffahrtsgesellschaft MBH & Co. Kommanditgesellschaft v. Republic of Romania, 123 F. Supp. 2d 174	308+96	Under New York law, actual authority may be established by any action that reasonably indicates to agent that principal wants agent to perform certain task.	Can an action of the Principal establish authority?	041334.docx	LEGALEASE-00152297-LEGALEASE-00152298
Gowens v. Tys. S. ex rel. Davis, 948 So. 2d 513	308+47	Although as against a principal, both principal and agent are deemed to have notice of whatever either has notice of, the imputation of the principal's knowledge to the agent is contrary to the general principles of agency.	Can a principals knowledge be imputed to an agent?	Principal and Agent - Memo 202 - KC_59870.docx	ROSS-003296513-ROSS-003296514
St. Clair Intermediate Sch. Dist.t v. Intermediate Educ. Ass'n/Michigan Educ. Ass'n, 458 Mich. 540	308+1	Fundamental to the existence of an agency relationship is the right to control the conduct of the agent with respect to the matters entrusted to him. Restatement (Second) of Agency S 14.	Can an agents conduct be controlled by the principal with respect to matters entrusted to him?	041506.docx	LEGALEASE-00152333-LEGALEASE-00152334
Hidden Brook Air v. Thabet Aviation Int'l Inc., 241 F. Supp. 2d 246	308+99	"Actual authority" exists when an agent has the power to do an act or to conduct a transaction on account of the principal which, with respect to the principal, he is privileged to do because of the principal's manifestation to him. Restatement (Second) of Agency S 7 comment.	When does actual authority exist in an agent?	Principal and Agent - Memo 225 - KC_60111.docx	ROSS-003278430-ROSS-003278431
Hartford Elevator v. Lauer, 94 Wis. 2d 571	308+60	An agent is liable for damages in the event of breach of duty to his principal and any losses he causes may be offset against any claim he may have for compensation.	Will an agent be liable for damages in the event of breach?	Principal and Agent - Memo 57 - KC_60264.docx	ROSS-003318941
Hartzell Fan v. Waco, 256 Va. 294	308+94	"Special agent" is one who is authorized to perform one or more specific acts in pursuance of particular instructions, or within restrictions necessarily implied from the stated acts to be performed.	Who is a Special Agent under the law?	Principal and Agent - Memo 65 - KC_60272.docx	ROSS-003278700-ROSS-003278701
Valeriano-Cruz v. Neth, 14 Neb. App. 855	21+12	An "affidavit" is a written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation; an affidavit must bear on its face, by the certificate of the officer before whom it is taken, evidence that it was duly sworn to by the party making the same.	Should the affidavit bear on its face to have been taken before the proper officer?	Affidavits - Memo 50 - _1Glj-B9TmGRbbXtl-LPDA-NrVAyxuLoLQ.docx	ROSS-000000197-ROSS-000000198

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Habersham v. Lehman, 63 Ga. 380	83E+731(2)	A negotiable note being indorsed in blank (the blank still unfilled), any holder may sue the maker. A full indorsement by a person other than the payee, will not hinder the blank indorsement by the payee from operating as evidence of title in the present holder.	Can any holder sue a maker on a negotiable note indorsed in blank?	Bills and Notes - Memo 877 - RK_60677.docx	ROSS-003308356-ROSS-003308357
Turner v. Beneficial Corp., 242 F.3d 1023	172H+1537	Detrimental reliance is an element in a TILA claim for actual damages; overruling Jones v. Bill Heard Chevrolet, Inc., 212 F.3d 1356; Ransom v. S & S Food Center, Inc. of Florida, 700 F.2d 670. Truth in Lending Act, S 130(a)(1), (a)(2)(A), 15 U.S.C.A. S 1640(a)(1), (2)(A).	Is detrimental reliance an element of Truth in Lending Act (TILA) claims for actual damages?	Bills and Notes - Memo 885 - RK_60684.docx	ROSS-003280399-ROSS-003280400
Thorp, Smith & Hanchett v. Craig, 10 Iowa 461	83E+675	The law of the place where a bill of exchange is payable governs as to the allowance of days of grace.	Will law of the place where a draft is made payable govern the days of grace upon a bill of exchange?	009865.docx	LEGALEASE-00153582-LEGALEASE-00153583
Smith v. Anderson, 70 Vt. 424	8.30E+10	Where parties to a note, who lived in different states, did not contract with reference to the law of either state, the law of the place in which the contract was made would determine the right to recover; and hence a charge that whether or not the note had been paid might depend on whether the contract was made in one state or another is not erroneous.	Does the law of the place in which a contract was made govern the right to recover?	009899.docx	LEGALEASE-00153651-LEGALEASE-00153652
Atl. Cmty. Coll. v. Civil Serv. Comm'n, 59 N.J. 102	141E+990	County colleges are not agencies of county government but, rather, are separate political subdivisions which serve separate purpose and operate apart from governing bodies of counties in which they are situated. N.J.S.A. 18A:64A-3, 4, 7 to 9, 15.	Is a county college an agency of county government?	017074.docx	LEGALEASE-00152881-LEGALEASE-00152882
Virginia Elec. & Power Co. v. Buchwalter, 228 Va. 684	156+29	In action challenging electric company's easement, lot owner, who as grantee, was in privy with party who granted easement to electric company, was bound by every estoppel which would have been binding on grantor, whether or not he sought to deny grantor's title.	Are those who derive title from or through the parties bound by every estoppel that would have been binding on the parties?	018016.docx	LEGALEASE-00153019-LEGALEASE-00153020
Niday v. GMAC Mortg., 353 Or. 648	266+894	Lender that had provided loan underlying trust deed, not Mortgage Electronic Registration Systems (MERS), a private electronic database used by lenders, loan servicers, investors, and other industry participants to track transfer of beneficial interests in mortgage loan obligations, was the "beneficiary" of trust deed, for purposes of determining whether beneficiary had assigned a beneficial interest in trust deed but failed to record that assignment, such as would preclude nonjudicial foreclosure of trust deed pursuant to Oregon Trust Deed Act (OTDA); even though MERS had been named as beneficiary in trust deed, lender was the party to whom the underlying, secured obligation was owed. West's Or.Rev. Stat. Ann. S 86.735(1).	Does a trust deed convey an interest in real property to a trustee to secure the performance of an obligation the grantor owes to a beneficiary?	018330.docx	LEGALEASE-00153505-LEGALEASE-00153506
Ex Parte AutoSource Motors, 156 So. 3d 397	106+35	If a defendant makes a prima facie evidentiary showing that a court has no personal jurisdiction, the plaintiff is then required to substantiate the jurisdictional allegations in the complaint by affidavits or other competent proof, and he may not merely reiterate the factual allegations in the complaint. Rules Civ.Proc., Rule 12(b)(2).	"In considering a motion to dismiss for want of personal jurisdiction, should a court consider as true the allegations of the plaintiff's complaint not controverted by the defendant's affidavits?"	Pretrial Procedure - Memo # 8889 - C - SN_61230.docx	ROSS-003278492-ROSS-003278493

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Weatherman v. Gary-Wheaton Bank of Fox Valley, N.A., 186 Ill. 2d 472	30+3200	De novo standard of review applies to appeal from an order granting motion to dismiss that attacks legal sufficiency of complaint based on defects on its face. S.H.A. 735 ILCS 5/2-615.	Does a motion to dismiss under section 2615 alleging defects on the face of the complaint attack the legal sufficiency of the complaint?	06613.docx	LEGALEASE-00096591-LEGALEASE-00096592
Berger v. Emerson Climate Techs., 508 S.W.3d 136	307A+681	Issue on a motion to dismiss is not whether the plaintiff is entitled to a judgment in his favor, rather it is whether he is entitled to be heard on his claim.	Is an issue on a motion to dismiss not whether the plaintiff is entitled to a judgment in his favor?	Pretrial Procedure - Memo # 9055 - C - MS_60460.docx	ROSS-003296693-ROSS-003296694
Howard v. Frost Natl Bank, 458 S.W.3d 849	307A+681	Courts disregard conclusions not supported by facts in the context of assessing a motion to dismiss.	Do courts disregard conclusions not supported by facts in the context of assessing a motion to dismiss?	06618.docx	LEGALEASE-00096617-LEGALEASE-00096618
Papa John's Int'l v. Cosentino, 916 So. 2d 977	307A+561.1	If the face of the complaint contains allegations which demonstrate the existence of an affirmative defense, then such a defense may be considered on a motion to dismiss, otherwise, affirmative defenses may not be considered. West's F.S.A. RCP Rule 1.110(d).	When can affirmative defense be considered on a motion to dismiss?	038435.docx	LEGALEASE-00153332-LEGALEASE-00153333
Regency Oaks Corp. v. Norman-Spencer McKernan, 129 A.D.3d 1454	308+99	The mere creation of an agency for some purpose does not automatically invest the agent with apparent authority to bind the principle without limitation.	"Do the acts of an agent, within the scope of his real or apparent authority, bind the principal? "	Principal Agent- Memo 29 -AM.docx	LEGALEASE-00043316-LEGALEASE-00043317
Faiola v. Calderone, 275 Pa. 303	308+99	Where an agent of limited powers has been in the habit of managing the business committed to his care in a manner involving an enlargement of his powers with the knowledge and acquiescence of his principal, authority is then implied.	Can a principal be responsible for acts done in excess of his instructions?	Principal and Agent - Memo 261 - KC_60658.docx	ROSS-003296599
Stubl v. T.A. Sys., 984 F. Supp. 1075	308+81(5)	Under Michigan law, sales agents are entitled to post-termination commissions for sales they procured during their time at former employer.	Is an agent entitled to get a post-termination commission if he procured the sale?	041552.docx	LEGALEASE-00152802-LEGALEASE-00152803
Hartford Elevator v. Lauer, 94 Wis. 2d 571	308+60	An agent is liable for damages in the event of breach of duty to his principal and any losses he causes may be offset against any claim he may have for compensation.	Can an agent be held liable for breach of duty to his principal?	041557.docx	LEGALEASE-00152931-LEGALEASE-00152932
Barratt Am. Inc. v. City of Rancho Cucamonga, 37 Cal. 4th 685	371+2001	In general, taxes are imposed for revenue purposes, rather than in return for a specific benefit conferred or privilege granted.	"In general, are taxes imposed for revenue purposes?"	046018.docx	LEGALEASE-00153311-LEGALEASE-00153312
United States of Am. v. Beasley, 184 F. Supp. 3d 950	411+12	Evidence was sufficient to support finding that defendant's son, in delivering all terrain vehicles (ATVs) for use by customers at federal recreation area, was acting as defendant's agent, such that defendant, through her son as agent, had engaged in work activity on national forest land in possible violation of federal regulation, where defendant had twice told forest service officers, when they informed her that she needed special-use authorization to rent out ATVs on federal land, that she believed that her son, who was not employee of defendant's business, could deliver ATVs without permit, where ATVs that son delivered were of type rented out by defendant's business, and where son, in response to forest service officer's question, informed officer that "business was good." 36 C.F.R. S 261.10(c).	Does dispatching ATVs or snowmobiles into a national forest constitute an activity affecting national forest lands?	047657.docx	LEGALEASE-00153706-LEGALEASE-00153707

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In re McCarthy, 119 Misc. 257	21+8	The omission of the venue from an affidavit is not fatal, if the instrument or any part thereof expressly or by implication shows where it was taken.	Is the omission of venue fatal if the instrument expressly or impliedly shows where it was taken?	Affidavits - Memo 56 - _1HFaz4Xuusa6C7yT76Fc VUp-tDAnPUhIg.docx	ROSS-000000209
Haygood v. Head, 305 Ga. App. 375	21+12	In the absence of a valid jurat, a writing in the form of an affidavit has no force and no validity and amounts to nothing, when standing alone or when construed in connection with other evidence; to make a valid affidavit, the affiant must swear to it, and the fact of his swearing must be certified by a proper officer.	Is verification of an affidavit without effect in the absence of a jurat?	006699.docx	LEGALEASE-00154393- LEGALEASE-00154394
Boyd v. Am. Bank of Commerce at Wolfforth, 872 S.W.2d 29	8.30E+183	In construing promissory notes, court's primary objective is to ascertain and give effect to true intentions of the parties, seeking to give effect to all the provisions in notes so that none will be rendered meaningless.	What is the primary objective of a court when construing a promissory note?	Bills and Notes - Memo 998 - RK_61317.docx	ROSS-003292310-ROSS-003292311
Mathis v. DCR Mortg. III Sub I, 389 S.W.3d 494	8.30E+184	A court's primary duty in construing a note and deed of trust, as when construing a contract, is to ascertain the parties' intent from the instrument's language.	What is the primary objective of a court when construing a promissory note?	009990.docx	LEGALEASE-00154693- LEGALEASE-00154694
Bizier v. Globe Fin. Servs., 654 F.2d 1	172H+1322	Truth in Lending Act is intended to balance scales sought to be weighed in favor of lenders and is thus to be liberally construed in favor of borrowers. Truth in Lending Act, S 102 et seq. as amended 15 U.S.C.A. S 1601 et seq.	Should Truth in Lending Act (TILA) be constructed in favor of lenders or borrowers?	013702.docx	LEGALEASE-00154378- LEGALEASE-00154379
Osage Nation v. Bd. of Commissioners of Osage Cty., 394 P.3d 1224	228+181(6)	Contested jurisdictional facts are adjudicated by the finder of fact and not by a motion to dismiss or summary judgment.	Can contested jurisdictional facts not be adjudicated on either a motion to dismiss or for summary judgment?	Pretrial Procedure - Memo # 9277 - C - VA_61241.docx	ROSS-003294197-ROSS-003294198
Brown v. Knowles, 307 P.3d 915	307A+622	To identify the nature of the injury asserted, courts look to the facial allegations in complaint.	"To identify the nature of the injury asserted, do courts look to the facial allegations in a complaint?"	038989.docx	LEGALEASE-00154543- LEGALEASE-00154544
Nat'l Westminster Bank USA v. Century Healthcare Corp., 885 F. Supp. 601	101+1058	Lender liability is predicated on unmistakable showing that subservient corporation in reality has no separate, independent existence of its own and was being used to further purposes of dominant corporation.	What is lender liability predicated on?	Bills and Notes-Memo 1200-SB_61827.docx	ROSS-003322359-ROSS-003322360
Swift & Co. v. Bankers Tr. Co., 280 N.Y. 135	8.30E+67	Under Illinois law, checks which corporate maker's clerk fraudulently induced maker to make payable to a nonexistent person, under belief that such a person actually existed, were payable to bearer, could be transferred without indorsement, and authorized bank to pay the checks without indorsement and without liability for payment after forged indorsement by the clerk. Smith-Hurd Stats.III. c. 98, S 29.	Under what circumstances checks be payable to bearer?	010856.docx	LEGALEASE-00155384- LEGALEASE-00155385
Bank of New York Mellon v. Deane, 41 Misc. 3d 494	83E+417	Whatever the rights of a person to enforce an instrument by reason of delivery or assignment, a person is not a "holder" by reason of delivery or assignment alone, unless delivery is made of a bearer instrument.	Can a person become a holder by reason of delivery?	Bills and Notes-Memo 1208-PR_61519.docx	ROSS-003321714
Nat'l Union Fire Ins. Co. Pittsburgh, Pa. v. Proskauer Rose Goetz & Mendelsohn, 165 Misc. 2d 539	83E+416	Certificate of deposit, even if nonnegotiable, can be assigned and can be passed by delivery without endorsement by person to whose order it is made payable.	Can a certificate of deposit be assigned by delivery?	010863.docx	LEGALEASE-00155336- LEGALEASE-00155337

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Corp. Comm'n of N. Carolina v. Wilkinson, 201 N.C. 344	83E+455	One writing name on negotiable instrument otherwise than as maker, drawer, or acceptor is deemed indorser, unless contrary intention is indicated. C.S. S 3044.	Can a person be deemed to be an indorser unless he clearly indicates by appropriate words?	010865.docx	LEGALEASE-00155344-LEGALEASE-00155345
Palmer v. Champion Mortg., 465 F.3d 24	172H+1342	Courts must evaluate the adequacy of Truth in Lending Act (TILA) disclosures from the vantage point of a hypothetical average consumer, a consumer who is neither particularly sophisticated nor particularly dense. Truth in Lending Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.	What is an average consumer?	Consumer Credit - Memo 169 - RK.docx	LEGALEASE-00044623-LEGALEASE-00044624
Jackson v. Grant, 890 F.2d 118	172H+1556	Failure to notify borrower that she had right to rescind real estate loan transaction under Truth in Lending Act extended borrower's right to rescind for three years after transaction was consummated. Truth in Lending Act, SS 102, 125(a), 15 U.S.C.A. SS 1601, 1635(a); Truth in Lending Regulations, Regulation Z, S 226.23(a)(3), 15 U.S.C.A. foll. S 1700.	Does a failure to notify borrower that he had a right to rescind the transaction under TILA extended the borrower's right to rescind for three years?	013740.docx	LEGALEASE-00155743-LEGALEASE-00155744
Brown v. Marquette Sav. & Loan Ass'n, 686 F.2d 608	172H+1537	Borrower need not have been so misled as to have suffered actual damages as result of violation of Truth in Lending Act to recover statutory penalty. Truth in Lending Simplification and Reform Act of 1980, S 601 et seq., 15 U.S.C.A. S 1601 note; Truth in Lending Act, S 130(d), 15 U.S.C.A. S 1640(d).	Can a borrower recover the statutory penalty for a technical violation without showing that he has been deceived by the statutory violation?	013752.docx	LEGALEASE-00155480-LEGALEASE-00155481
Harris v. Tower Loan of Mississippi, 609 F.2d 120	172H+1561	Where a transaction is rescinded under Truth in Lending Act, the creditor is not barred from offsetting the value owed to it by the obligor from the sum it initially tendered to the obligor. Truth in Lending Act, S 125(b), 15 U.S.C.A. S 1635(b).	Can the creditor offset the value owed to it by the obligor from the sum it initially tendered to the obligor? ?	Consumer Credit - Memo 213 - RK_61875.docx	ROSS-003305837-ROSS-003305838
Reyes v. New York Univ., 305 A.D.2d 392	141E+1234	Institutions of higher education maintain contractual relationships with their students, and can, under appropriate facts, be liable for breaches regarding scholarships.	Can universities be liable for breach of contract regarding scholarships?	017089.docx	LEGALEASE-00154837-LEGALEASE-00154838
Keles v. Hultin, 144 A.D.3d 987	141E+1000	Courts retain a restricted role in dealing with and reviewing controversies involving colleges and universities.	Do courts have a restricted role in reviewing controversies involving universities?	Education - Memo #266 - C - ATS_61537.docx	ROSS-003295242-ROSS-003295243
Klouda v. Pechousek, 414 Ill. 75	315+333	Any act of a joint tenant which destroys any one of its necessarily coexistent unities, operates as a severance of the joint tenancy and extinguishes the right of survivorship.	"Where one joint tenant makes an agreement to convey, will the joint tenancy be severed resulting in a tenancy in common?"	018297.docx	LEGALEASE-00154819-LEGALEASE-00154820
Drigotas v. Doyle, 85 F. Supp. 908	200+173	Usually, pedestrian about to step from city curb or country road margin in Maine onto highway is not charged with duty to look and listen.	Is pedestrian charged or negligent with the duty to look?	Highways- Memo 421- ANM_61959.docx	ROSS-003323555
Drigotas v. Doyle, 85 F. Supp. 908	200+173	Usually, pedestrian about to step from city curb or country road margin in Maine onto highway is not charged with duty to look and listen.	Is a pedestrian charged with the duty to listen?	Highways- Memo 422- SB_61902.docx	ROSS-003294520-ROSS-003294521
Gross v. United Engineers & Constructors Inc., 224 Pa. Super. 233	302+37	Sufficiency of complaint is governed by facts alleged therein and fact that lacking information subsequently was or could be supplied is not governing.	Is the sufficiency of the complaint governed by the facts alleged therein?	Pleading - Memo 556 - RMM_62364.docx	ROSS-003295059-ROSS-003295060
Laurie v. Ezard, 595 S.W.2d 336	307A+581	In determining whether to dismiss dormant case, time the case has been on file and its prior inactivity may be considered; however, only in unusual situation should case be dismissed for prior inactivity.	What should be considered in determining whether to dismiss dormant case?	Pretrial Procedure - Memo # 9692 - C - SK_61593.docx	ROSS-003322688-ROSS-003322689

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Hahn v. Binder, 33 A.D.2d 903	307A+581	Where late appearance of counsel on calendar call was not willful dismissal may not have been justified. N.Y.Ct.Rules, S 660.5(c) (3) (i).	Is dismissal justified where the late appearance of counsel on calendar call was not willful?	039225.docx	LEGALEASE-00155254-LEGALEASE-00155255
Wood v. Cosme, 447 S.W.2d 746	307A+581	Where party fails to appear and prosecute his case, trial court cannot try case for him, and only remedy is to dismiss the case.	Can court try the case for a party where party fails to appear and prosecute his case?	Pretrial Procedure - Memo # 9737 - C - NE_61616.docx	ROSS-003294261-ROSS-003294262
Karen Stavins Enterprises v. Cmty. Coll. Dist. No. 508, 2015 IL App (1st) 150356	307A+681	Motion to dismiss cannot be supported by affidavit or by reference to facts not contained within the complaint. S.H.A. 735 ILCS 5/2-615.	Can a motion to dismiss be supported by affidavit or by reference to facts not contained within the complaint?	Pretrial Procedure - Memo # 9819 - C - BP_61776.docx	ROSS-003296445-ROSS-003296446
Harris v. McKay, 138 Va. 448	308+92(1)	Where an agent's authority is proved, no question of privity can arise. The doctrine of principal and agent, whether disclosed or undisclosed, recognizes that privity of contract exists between the principal and one dealing with the agent. The act of the agent is the act of the principal.	Does the doctrine of principal and agent recognize that privity of contract exists?	Principal and Agent - Memo 343 - RK.docx	LEGALEASE-00045512-LEGALEASE-00045513
Baker v. City of E. Orange, 95 N.J.L. 365	371+2001	"Taxes" are, in legal contemplation, neither debts nor contractual obligations, but are, in the strictest sense of the word, exactions.	"In legal contemplation, are taxes either debts or contractual obligations?"	046094.docx	LEGALEASE-00155046-LEGALEASE-00155047
Ragen v. Wolfner, 43 Ill. App. 2d 70	228+185.1(1)	Although exhibits attached to affidavits for summary judgment were not separately sworn to as true copies of their originals, references thereto in the text of the affidavits rendered the exhibits verified copies. Supreme Court Rules, rule 15(1), S.H.A. ch. 110, S 101.15(1).	Are exhibits attached thereto in an affidavit considered verified?	Affidavits - Memo 89 - _1w_Joh4KNkEtcktAWV9ATTIAm0F58NXKm.docx	ROSS-000000272-ROSS-000000273
Spencer v. Sterling Bank, 63 Cal. App. 4th 1055	83E+427	If indorsement is made by holder of instrument and indorsement identifies person to whom it makes instrument payable, it is a "special indorsement." West's Ann.Cal.Com.Code S 3205(a).	Is it a special indorsement if the holder of an instrument makes an indorsement identifying a person to whom it is payable?	010743.docx	LEGALEASE-00156403-LEGALEASE-00156404
State v. Vampran, 459 So. 2d 1333	96H+100(2)	Desire to teach others a lesson is not an acceptable basis for penalty imposed on a defendant, and trial judge in imposing sentence for distribution of cocaine erred in hoping that, by imposing sentence of imprisonment, he would send message to other drug offenders in community, and trial judge also erred in relying upon considerations for which there was no supporting factual evidence in the record. LSA-R.S. 40:967, subd. A; LSA-C.Cr.P. art. 894.1; U.S.C.A. Const.Amend. 8.	Is a desire to teach others a lesson an acceptable basis for imposing a sentence?	Bribery - Memo 1071 - C - ML_65556.docx	ROSS-003295596-ROSS-003295597
Kaptein By & Through Kaptein v. Conrad Sch. Dist., 281 Mont. 152	141E+954	Student's right to participate in extracurricular activities, although not fundamental right, is clearly subject to constitutional protection.	Is a students right to participate in extracurricular school activities a fundamental right?	Education - Memo # 277 - C - KS_62020.docx	ROSS-003281208-ROSS-003281209
Catalina Foothills Unified Sch. Dist. No. 16 v. La Paloma Prop. Owners Ass'n, 238 Ariz. 510	148+9	Political subdivisions, including school districts, do not have inherent powers of eminent domain and may only exercise those powers that are statutorily delegated to them.	Do schools districts have inherent powers?	Education - Memo # 291 - C - KS_62341.docx	ROSS-003298680-ROSS-003298681
Crosrol Carding Developments v. Gunter & Cooke, 12 N.C. App. 448	307A+694	Dismissal for failure to join a necessary party is not dismissal on the merits and may not be with prejudice. Rules of Civil Procedure, rule 41(b), G.S. S 1A-1.	Is a dismissal based upon a failure to join a necessary party a dismissal of the action without prejudice?	024639.docx	LEGALEASE-00155887-LEGALEASE-00155888

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Frigard v. United States, 862 F.2d 201	170A+1837.1	Ordinarily, case dismissed for lack of subject matter jurisdiction should be dismissed without prejudice.	Should a case dismissed for lack of subject matter jurisdiction be dismissed without prejudice so that a plaintiff can reassert his claims in a competent court?	024646.docx	LEGALEASE-00155896-LEGALEASE-00155897
Arrow Marble v. Estate of Killion, 441 S.W.3d 702	307A+690	While admittedly erroneous, a dismissal with prejudice that should have been without prejudice is not automatically void-it is merely voidable.	"While admittedly erroneous, is a dismissal with prejudice that should have been without prejudice not automatically void-it is merely voidable?"	024653.docx	LEGALEASE-00155906-LEGALEASE-00155907
Skevofilax v. Aventis Pasteur, 167 Md. App. 1	307A+690	To warrant dismissal of the complaint with prejudice, the plaintiff must have acted intentionally, as opposed to accidentally or involuntarily.	"To warrant dismissal of the complaint with prejudice, should the plaintiff have acted intentionally?"	Pretrial Procedure - Memo # 10363 - C - NS_62088.docx	ROSS-003279391
Storedahl Properties v. Clark Cty., 143 Wash. App. 489	268+956(1)	Where a charge relates to a direct benefit or service, the court generally does not consider it a tax or assessment; instead, the court refers to such charges as regulatory fees, a rather broad category that can include a wide assortment of utility customer fees, utility connection fees, garbage collection fees, local storm water facility fees, user fees, permit fees, parking fees, registration fees, filing fees, and license fees.	"Where a charge is related to a direct benefit or service, will it be considered a tax?"	Taxation - Memo # 990 - C - JL_62492.docx	ROSS-003279585-ROSS-003279586
State v. Cunningham, 344 N.C. 341	3.77E+10	Elements of communicating a threat are that: defendant threatened person; communicated threat to that person; made threat in such a manner and under such circumstances that reasonable person would believe threat was likely to be carried out; and person threatened believed that threat was likely to be carried out. G.S. S 14-277.1.	What are the elements of communicating a threat?	046659.docx	LEGALEASE-00156070-LEGALEASE-00156071
In Interest of M.M., 571 So. 2d 112	67+7	Ownership of building or structure is material element of burglary and must be proven as alleged in order to support conviction. West's F.S.A. S 810.02.	Is ownership of the building or structure an essential element of burglary?	Burglary - Memo 267 - RK_62271.docx	ROSS-003278780-ROSS-003278781
Kidd v. Commonwealth, 273 Ky. 300	67+9(1)	The word "break" implies force, and, as used in the storehouse breaking statute, it has the same well-known and definite meaning as at common law with reference to the crime of burglary. Ky.St. S 1164.	What does the word break denote in the context of burglary?	013114.docx	LEGALEASE-00156530-LEGALEASE-00156531
Com. v. Corbin, 300 Pa. Super. 218	67+9(2)	A person who is licensed or privileged to enter the premises is not a burglar even though he intends to commit a crime therein. 18 Pa.C.S.A. S 3502.	Can a person who is licensed or privileged to enter be considered a burglar?	Burglary - Memo 313 - RK_62315.docx	ROSS-003309322-ROSS-003309323
People v. Isidore, 185 A.D.2d 622	67+15	Generally, person is "licensed or privileged" to enter premises within meaning of burglary statute when he or she has permission of owner or someone whose relationship to premises gives him or her authority to grant such consent. McKinney's Penal Law SS 140.00, subd. 5, 140.25, subd. 2, 155.25.	Who is privileged in the context of burglary?	013154.docx	LEGALEASE-00156609-LEGALEASE-00156610
Brimhall v. Brewster, 835 N.E.2d 593	307A+690	Unless the trial court indicates that the dismissal is without prejudice, it must be deemed to be with prejudice. Trial Procedure Rule 41(B).	"Unless the trial court indicates that the dismissal is without prejudice, should it be deemed to be with prejudice?"	Pretrial Procedure - Memo # 10527 - C - NS_62427.docx	ROSS-003293467-ROSS-003293468
Dick Poe Motors v. DaimlerChrysler Corp., 169 S.W.3d 478	307A+690	A dismissal of a case for want of prosecution is not a trial on the merits, and therefore dismissal with prejudice is improper.	"Is a dismissal of a case for want of prosecution not a trial on the merits, and therefore dismissal with prejudice is improper?"	025040.docx	LEGALEASE-00156699-LEGALEASE-00156700

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In re NC & VA Warranty Co., 556 B.R. 182	308+1	Under North Carolina law, there are two essential ingredients in the principal-agent relationship: (1) authority, either express or implied, of the agent to act for the principal, and (2) the principal's control over the agent.	What are the essential ingredients of a principal-agent relationship?	Principal and Agent - Memo 570-SB_63586.docx	ROSS-003295713-ROSS-003295714
Orbison v. Welsh, 242 Ind. 385	371+2750	The payment of a tax is compulsory and not optional, and it entitles taxpayer to receive nothing in return, other than rights of government which are enjoyed by all citizens alike.	Is a tax compulsory and not optional?	044592.docx	LEGALEASE-00156681-LEGALEASE-00156682
Com. v. Kelley, 444 Pa. Super. 377	3.77E+10	Direct communication of threat between defendant and victim was not required element of crime of making terroristic threats. 18 Pa.C.S.A. S 2706.	Is a direct communication of a threat between defendant and victim a required element of the crime of making terroristic threats?	046663.docx	LEGALEASE-00156486-LEGALEASE-00156487
Oregon Wild, v. Constance Cummins, 239 F. Supp. 3d 1247	411+8	Forest Service's issuance of annual operating instructions (AOI) to manage livestock grazing in national forest did not violate land and resource management plan for forest, and thus did not violate National Forest Management Act (NFMA), which required all agency actions to comply with adopted forest plans, despite environmental conservation organizations' allegations that grazing was preventing attainment of riparian management objectives (RMO) included in forest plan to protect inland fish, where organizations failed to demonstrate that grazing in forest was the cause of any failure to attain RMOs or that there was any failure to attain RMOs at the watershed level, rather than individual creek level, as required by forest plan, and, although Forest Service failed to attain specific, numerical goals set out in RMOs, the forest plan did not require narrow and rigid application of RMOs, but was aimed at meeting targets over time and Forest Service was on a trajectory to reach targets. Forest and Rangeland Renewable Resources Planning Act of 1974, S 2 et seq., 16 U.S.C.A. S 1600 et seq.	What does National Forest Management Act (NFMA) provides for forest planning and management?	047639.docx	LEGALEASE-00156661-LEGALEASE-00156662
Allison v. Manzke, 118 Wis. 11	38+90	The assignee of a chose in action stands exactly in the shoes of his assignor. He succeeds to all his rights and privileges, but acquires no greater right than his assignor had in the thing assigned.	Does an assignee have the same rights as the assignor?	009059.docx	LEGALEASE-00157097-LEGALEASE-00157098
Stiles v. Farrar, 18 Vt. 444	83E+484	The interest of the payee in a note not negotiable may be assigned; and if assigned, and notice thereof is given to the maker, and an action is commenced upon the note in the name of the payee for the benefit of the assignee, the equitable interest of the assignee will be protected at law. This is not now an open question.	Is the equitable interest of the assignee protected by law upon his giving proper notice?	009107.docx	LEGALEASE-00157175-LEGALEASE-00157176
Port Fin. Co. v. Ber, 45 So. 2d 404	156+52(1)	A plea of equitable estoppel cannot be permitted to prevail when in conflict with and diametrically opposed to the positive written law. LSA-C.C.art.21.	Can estoppel prevail when in conflict with positive written law?	Estoppel - Memo #153 - C - CSS_62354.docx	ROSS-003293714-ROSS-003293715
Campbell v. First Baptist Church of City of Durham, 51 N.C. App. 393	315+609	In an "exchange" of property, specific property is given in consideration of property other than money, although one of the parties may pay a sum of money in addition to the property.	"In an exchange of property, is the consideration received for the property given?"	Exchange of property - Memo 20 - AM_62726.docx	ROSS-003296251-ROSS-003296252

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In re Webb Mtn, 414 B.R. 308	51+2645.1	Under Bankruptcy Code's definition of "transfer," any transfer of an interest in property is a "transfer," including a transfer of possession, custody, or control even if there is no transfer of title, inasmuch as possession, custody, and control constitute interests in property. 11 U.S.C.A. S 101(54).	"Does possession, custody, and control constitute interests in property?"	018291.docx	LEGALEASE-00156897-LEGALEASE-00156898
East Lake Creek Ranch, LLP v. Brotman, 998 P.2d 46	315+609	One test for determining whether a transaction constitutes a "sale" or instead an "exchange" is whether there is a fixed value at which the exchange is to be made; if there is a fixed value, it is a sale.	Is there a test to determine whether the transaction constitutes a sale or exchange of property?	Exchange of property - Memo 19 - AM_62575.docx	ROSS-003307093-ROSS-003307094
Stiles v. Graves, 143 A.D.3d 1215	307A+690	Dismissal of action without prejudice permits a plaintiff to relitigate an identical claim to that which has been dismissed.	Does a dismissal of action without prejudice permit a plaintiff to relitigate an identical claim to that which has been dismissed?	Pretrial Procedure - Memo # 10456 - C - KG_62735.docx	ROSS-003295098-ROSS-003295099
Hutcheson v. Elec. Data Access Techs., 327 S.W.3d 622	307A+690	An involuntary dismissal for a failure to prosecute may be made with prejudice if there is notice and an opportunity to be heard before the dismissal is made; however, dismissal with prejudice implicates due process concerns, requiring notice and an opportunity to be heard. U.S.C.A. Const.Amend. 14.	Can an involuntary dismissal for a failure to prosecute be made with prejudice if there is notice and an opportunity to be heard before the dismissal is made?	024969.docx	LEGALEASE-00157297-LEGALEASE-00157298
Hickman v. Adams, 35 S.W.3d 120	336H+140	"Dismissal with prejudice" constitutes an adjudication on the merits and operates as if the case had been fully tried and decided.	Does a dismissal with prejudice operate as if the case had been fully tried and decided?	Pretrial Procedure - Memo # 10502 - C - UG_63372.docx	ROSS-003281422-ROSS-003281423
Blake v. Stinson, 5 So. 3d 615	307A+694	The failure of the trial court to address the preclusive effect of an order of dismissal for want of prosecution compels a determination that it operates as an adjudication on the merits. Rules Civ.Proc., Rule 41(b).	Is a dismissal for want of prosecution clearly with prejudice?	Pretrial Procedure - Memo # 10576 - C - DA_62613.docx	ROSS-003279860-ROSS-003279861
Richmond Cty. Bd. of Educ. v. Cowell, 225 N.C. App. 583	30+70(5)	The denial of a motion to dismiss is an interlocutory order which is not immediately appealable unless that denial affects a substantial right of the appellant.	Is the denial of a motion to dismiss an interlocutory order?	025152.docx	LEGALEASE-00157159-LEGALEASE-00157160
Airgrowers v. Tomlinson, 230 Ga. App. 415	307A+693.1	Cross-claim is not subject to dismissal simply because main claim has been dismissed, and, where it can be adjudicated without regard to main claim, cross-claim should be considered even after main claim has been dismissed.	Is a cross-claim not subject to dismissal simply because a main claim has been dismissed?	025204.docx	LEGALEASE-00157279-LEGALEASE-00157280
Myers v. Cohen, 67 Haw. 389	307A+693.1	Dismissal of a claim for want of prosecution does not dispose of a counterclaim, and a counterclaim may be adjudicated on the merits even where a complaint is dismissed.	Does dismissal of a claim for want of prosecution dispose of a counterclaim?	025232.docx	LEGALEASE-00156737-LEGALEASE-00156738
Dollarhide v. Bancroft, 2008 WY 113	307A+581	No precise rule may be laid down as to what circumstances justify a dismissal for lack of prosecution; instead, the circumstances surrounding each case must be examined, keeping in mind the conflict between the need for the court to manage its docket for the purpose of preventing undue delay on the one hand, and the policy favoring disposition of cases on the merits on the other hand. Rules Civ.Proc., Rule 41(b); District Courts Uniform Rule 203(c).	Can a precise rule be laid down as to what circumstances justify a dismissal for lack of prosecution?	Pretrial Procedure - Memo # 10730 - C - SK_63261.docx	ROSS-003279296-ROSS-003279297
White v. Revco Disc. Drug Centers, 33 S.W.3d 713	231H+25	An agent may serve two masters simultaneously, so long as the objectives of one master are not contrary to the objectives of the other. Restatement (Second) of Agency S 226.	Can an agent serve two masters simultaneously if the objectives are not contrary?	Principal and Agent - Memo 411 - RK_63531.docx	ROSS-003280799-ROSS-003280800

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Hickman v. Barclay's Int'l Realty, 5 So. 3d 804	308+1	It is the right of control, not actual control or descriptive labels employed by the parties, that determines an agency relationship.	Can descriptive labels employed by the parties determine an agency relationship?	Principal and Agent - Memo 418 - RK_63538.docx	ROSS-003281078-ROSS-003281079
Turner v. Bd. of Aviation Comm'rs, 743 N.E.2d 1153	308+9	Agency relationship arises from the consent of the parties in the form of a contractual agreement, but it is not necessary that the contract or the authority of the agent to act be in writing.	Is it necessary that the authority of the agent to act be in writing?	Principal and Agent - Memo 433 - RK_63553.docx	ROSS-003297753-ROSS-003297754
In re Hughes, 513 S.W.3d 28	308+1	For an agency relationship to exist, there must be (1) a meeting of the minds between the parties to establish the relationship, and (2) some act constituting the appointment of the agent.	Should there be meeting of minds between the parties for an agency to exist?	Principal and Agent - Memo 456- PR_63470.docx	ROSS-003283018-ROSS-003283019
Chase v. Kawasaki Motors Corp., U.S.A., 140 F. Supp. 2d 1280	308+19	Under Alabama law, whether an express agency relationship exists depends on whether there is evidence of a retained right of control by the principal over the agent; an agency relationship may not be presumed.	Can express agency exist when there is right of control?	041855.docx	LEGALEASE-00157574-LEGALEASE-00157575
In re Grabau, 151 B.R. 227	65+3	California Real Estate Act contemplates that someone can act as salesman without necessarily qualifying as real estate broker; in that instance, real estate salesman is merely agent of employing broker. West's Ann.Cal.Bus. & Prof.Code SS 10131, 10131.1-10131.3, 10131.6, 10132.	Who is a real estate salesman?	041875.docx	LEGALEASE-00157490-LEGALEASE-00157491
Figi Graphics v. Dollar Gen. Corp., 33 F. Supp. 2d 1263	308+1	Critical factor in determining existence of agency relationship is degree of control exercised by principal over agent.	What is the critical factor in determining existence of an agency relationship?	Principal and Agent - Memo 476- PR_63267.docx	ROSS-003296274-ROSS-003296275
Lawrence v. Anheuser-Busch, 523 A.2d 864	308+1	It is essential to agency relationship that principal have right to control work of agent and that agent act primarily for benefit of principal.	Is it essential that the principal have the right to control the work of the agent?	041932.docx	LEGALEASE-00157740-LEGALEASE-00157741
State, ex rel. Petroleum Underground Storage Tank Release Comp. Bd., v. Withrow, 62 Ohio St. 3d	371+2002	It is not possible to come up with single test that will correctly distinguish tax from fee in all situations; what is tax for one inquiry is not necessarily tax under other circumstances.	Is it possible to come up with a single test that will correctly distinguish a tax from a fee?	044555.docx	LEGALEASE-00157233-LEGALEASE-00157234
People v. Stout, 193 Colo. 466	3.77E+13	Actual subjective fear on part of victim is not a necessary element of crime of menacing. C.R.S. '73, 18-3-206.	Is actual subjective fear on the part of the victim a necessary element of the crime of menacing?	046716.docx	LEGALEASE-00157309-LEGALEASE-00157310
In re Ricky T., 87 Cal. App. 4th 1132	377E+48(2)	If surrounding circumstances can show whether a terrorist threat was made, absence of circumstances can also show that a terrorist threat was not made. West's Ann.Cal.Penal Code S 422.	Can an absence of surrounding circumstances show that a terrorist threat was not made?	047060.docx	LEGALEASE-00157674-LEGALEASE-00157675
In re Ricky T., 87 Cal. App. 4th 1132	3.77E+13	Term "sustained fear," as used in Penal Code section requiring the prohibited threat be such as to cause a reasonable person to be in sustained fear for his personal safety, is a period of time that extends beyond what is momentary, fleeting, or transitory. West's Ann.Cal.Penal Code S 422.	"What is ""sustained fear"" as used in the Penal Code prohibiting threats?"	047062.docx	LEGALEASE-00157676-LEGALEASE-00157677
Rouse v. State, 369 N.W.2d 811	413+102	"Employment," for purposes of workers' compensation law, is mutual arrangement between employer and employee under which both give up and gain certain things. I.C.A. SS 85.20, 85.61(2).	"Is employment, under compensation law, a mutual arrangement between the employer and employee?"	Worker's Compensation - Memo #632 - C - ANC_63492.docx	ROSS-003293681-ROSS-003293682

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Eastern. Acceptance Corp. v. Kavlick, 10 N.J. Super. 253	83E+430	Endorsement "without recourse" is not restrictive endorsement but is qualified endorsement which does not impair negotiable character of instrument, and since its purpose is simply to exempt endorser from liability for payment of instrument in event it is dishonored at maturity, its presence does not indicate that endorser's title may be defective. R.S. 7:2-36, 38; R.S. 7:2-36, 38, N.J.S.A.	Is an endorsement without recourse a restrictive endorsement or a qualified endorsement?	009422.docx	LEGALEASE-00158118- LEGALEASE-00158119
Danco v. Commerce Bank/Shore, N.A., 290 N.J. Super. 211	83E+472	Virgule, when placed between names of two payees on instrument, specifically indicates that alternative endorsement is acceptable, and that payment on an endorsement is proper with signature of either.	What does a virgule when placed between two names indicate?	Bills and Notes-Memo 1164 - AR_63610.docx	ROSS-003292792-ROSS- 003292793
F.D.I.C. v. Bank of New York, 479 F. Supp. 2d 1	170B+3957	Federal Deposit Insurance Corporation (FDIC), in action brought against indenture trustee for interests of investors who purchased asset-backed securities from trust established by defunct bank, seeking to enforce its rights to bank's credit card receivables, was entitled to permanent injunction against pending and future proceedings as to central interpleader issue of whether the Master Indenture's ipso facto clause and its early amortization requirement were enforceable, but not as to alternative claim to receivables allegedly not dependent on the enforceability of early amortization; the former issue was already decided, injury to FDIC of having to endure wasteful relitigation would be irreparable, parties had already had a full and fair opportunity to litigate issue, and public interest would be served by avoiding additional lengthy and complex proceedings, but the latter, alternative, claim might present new issues.	Was NextBank established to issue consumer credit cards through the internet?	013732.docx	LEGALEASE-00158725- LEGALEASE-00158726
Com. v. Baez, 42 Mass. App. Ct. 565	35+63.4(1)	To find "breach of the peace" within the meaning of Gorman test for authority of officers to arrest motorists without warrants, act must at least threaten to have some disturbing effect on public.	What does the term breach of the peace mean as an offense?	Disorderly Conduct - Memo 3 - KC_64033.docx	ROSS-003306506-ROSS- 003306507
Landry v. Istre, 510 So. 2d 1310	322H+1276	Civil Code articles relative to redhibitory sales are applicable to contracts of exchange. LSA-C.C. art. 2667.	"Do all the Civil Code provisions relative to the contract of sale, that includes redhibitory sales, apply to the contract of exchange?"	018311.docx	LEGALEASE-00158880- LEGALEASE-00158881
Bank of Augusta v. Earle, 38 U.S. 519	183+1	Franchises are special privileges conferred by government upon individuals, and which do not belong to the citizens of the country generally of common right. It is essential to the character of a franchise that it should be a grant from the sovereign authority, and in this country no franchise can be held which is not derived from the law of the state.	Is franchise a privilege granted by the government?	018584.docx	LEGALEASE-00158763- LEGALEASE-00158764

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Kahn's Estate, 18 Mo.App. 426	289+866	Rev.St.1879, S 207, provides that any administrator may establish a demand against his intestate in the same manner as other persons. Section 68 provides that the administration of partnership effects shall conform to the administration of other estates, except as otherwise provided. Section 65 declares that, when the surviving partner administers on the partnership effects, he shall have power to pay off claims against the firm without requiring them to be exhibited to the probate court for allowance, and the court shall allow such partner in his settlements all demands he may thus discharge. Held, that the administration of partnership effects by a surviving partner is governed solely by section 65, so that it is not necessary for a surviving partner, administering upon the partnership effects, to exhibit a claim of his own against the firm to the probate court.	Does the administration upon partnership effects conform to administrations in ordinary cases?	022635.docx	LEGALEASE-00158777- LEGALEASE-00158778
Texas State Bd. of Registration for Prof'l Engineers v. Dalton, Hinds & O'Brien Eng'g Co., 382 S.W.2d 130	212+1546	Allegations of fact in a suit for injunction should be direct, certain and particular and leave nothing to inference, and the petition should contain specific fact allegations showing a right in the pleader, the wrong done by the defendant, and resulting injury.	"Should allegations of fact in a suit for injunction be direct, certain, and particular?"	023825.docx	LEGALEASE-00158582- LEGALEASE-00158583
Moucha v. Burger King Corp., 450 So. 2d 335	307A+561.1	Affirmative defense appearing on face of complaint may be raised by motion to dismiss complaint. West's F.S.A. RCP Rule 1.110(d).	Will an affirmative defense appearing on face of complaint be raised by motion to dismiss complaint?	Pretrial Procedure - Memo # 10777 - C - NC_63644.docx	ROSS-003280192-ROSS-003280193
Adjustment Specialists v. Collection Bureau of Orlando, 221 So. 2d 443	307A+687	Well-pleaded allegations of complaint are taken as true for purpose of considering motion to dismiss, and affirmative defenses are to be asserted in answer.	Can well-pleaded allegations of complaint be taken as true?	025469.docx	LEGALEASE-00158448- LEGALEASE-00158449
Gugello v. Select Specialty Hosp.-Tulsa, 143 P.3d 519	228+341	A trial court's term-time power to modify or vacate a judgment is not restricted to specific grounds, statutory or otherwise, and the court's power is almost unlimited; no exceptional circumstances are required.	"Is the term-time power not restricted to specific grounds, statutory or otherwise?"	Pretrial Procedure - Memo # 10852 - C - SHS_63876.docx	ROSS-003282206-ROSS-003282207
Hoffman v. Paracelsus Health Care Corp., 752 So. 2d 1030	307A+581	The law favors trial of issues on the merits, and dismissals for want of prosecution are therefore employed reluctantly. Rules Civ.Proc., Rule 41(b).	"Because the law favors a trial on the merits, should a dismissal with prejudice be executed reluctantly?"	025633.docx	LEGALEASE-00158711- LEGALEASE-00158712
Allstate Ins. Co. v. Anderson, 329 Ill. App. 3d 93	307A+693.1	A dismissal for want of prosecution is ordinarily not a final order because of plaintiff's right to refile under Code of Civil Procedure; when the time for refiling expires, the litigation is terminated and the order is final. S.H.A. 735 ILCS 5/13-217.	Are dismissals for want of prosecution not final orders?	Pretrial Procedure - Memo # 10990 - C - NS_64113.docx	ROSS-003296245-ROSS-003296246
Butler v. Mayer, Brown & Platt, 301 Ill. App. 3d 919	307A+679	In ruling on motion to dismiss, court must accept as true all well-pleaded facts in plaintiff's complaint and all inferences that can reasonably be drawn in his favor. S.H.A. 735 ILCS 5/2-619.	Can a complaint be dismissed when the defendant is entitled to judgment as a matter of law?	025901.docx	LEGALEASE-00158120- LEGALEASE-00158121
Jai Borchers v. Franciscan Tertiary Province of Sacred Heart, 2011 IL App (2d) 101257	30+3200	Motions to dismiss based upon certain defects or defenses present a question of law, and appellate court reviews rulings thereon de novo. S.H.A. 735 ILCS 5/2-619.	Would motions to dismiss present a question of law?	Pretrial Procedure - Memo # 11096 - C - DA.docx	LEGALEASE-00048601- LEGALEASE-00048602

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McClung's Ex'rs v. Spotswood, 19 Ala. 165	308+92(3)	When authority is given to an agent to do a particular act, and the manner of executing that authority is not prescribed, the principal is bound by the act of the agent, although it may not be done in the manner in which he desired it to be done, or in which he would himself have done it.	Can a party be affected or when dealing with an agent given authority to do an act when mode or manner of executing the authority is not expressed even to the agent himself?	041675.docx	LEGALEASE-00158926-LEGALEASE-00158927
Townsend v. Shipley, 29 Ariz. 96	308+23(4)	Evidence that plaintiff purchased land of defendant, held under option unknown to plaintiff, with no showing of employment of defendant to make purchase, and only contract proved was one of purchase and sale with parties treating each other as vendor and vendee, held to show that relation of "agency," which imports commercial dealings between two parties, through medium of another, did not exist.	Does agency always import commercial dealings between two parties by and through the medium of another?	Principal and Agent - Memo 396 - RK_63952.docx	ROSS-003305380-ROSS-003305381
Arsand v. City of Franklin, 83 Wis. 2d 40	308+159(1)	An agent may or may not be a servant; if he is not a servant, his principal is not vicariously liable for his negligent physical conduct except under certain circumstances.	When is a principal not vicariously liable for the negligence of his agent?	Principal and Agent - Memo 403 - RK_63958.docx	ROSS-003293576-ROSS-003293577
Fischer v. Machado, 50 Cal. App. 4th 1069	308+1	Existence of fiduciary relation modifies all agency agreements and creates rules which do not apply to contracts in which one party is not agent for other.	What rules does the existence of a fiduciary relationship create?	Principal and Agent - Memo 531 - RK_63989.docx	ROSS-003309047-ROSS-003309048
In re Mario S., 38 Misc. 3d 444	24+179	Juvenile court's function in deciding motion for special findings which would permit juvenile to file application for adjustment of status as a special immigrant juvenile (SIJ) is limited in scope: court must determine whether, under state law, juvenile is under age 21, unmarried, dependent upon court through order of placement or other court order, whether reunification with one or both parents is not possible due to abuse, neglect, or abandonment, and whether it would be contrary to juvenile's best interest to be returned to his or her previous country of nationality, and court need not determine any other issues, such as juvenile's motivation in moving for required findings, whether allowing particular child to remain in the country might pose threat to public safety, or whether United States Customs and Immigration Services (USCIS), the federal agency charged with enforcing immigration laws, may or may not grant juvenile's application for adjustment of status as a SIJ. Immigration and Nationality Act, S 101(a)(27)(J), 8 U.S.C.A. S 1101(a)(27)(J); 8 C.F.R. S 204.11(c).	Should the juvenile court determine what the juvenile's motivation in making an application might be?	"Aliens, Immigration and Citizenship - Memo 124 - RK_64766.docx"	ROSS-003292457-ROSS-003292458

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Mario S., 38 Misc. 3d 444	24+179	Under the current special immigrant juvenile (SIJ) provisions of the Immigration and Nationality Act (INA), in order to be eligible to petition the federal government for SIJ status, the resident alien must be under age 21 and unmarried, he or she must have been declared dependent upon a state juvenile court, and the juvenile court must have made two additional findings: (1) that reunification with one or both of the alien's parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, and (2) that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence. Immigration and Nationality Act, S 101(a)(27)(J), 8 U.S.C.A. S 1101(a)(27)(J).	"Has Congress removed the requirement that a state juvenile court find that a juvenile is eligible for long-term foster care because of abuse, neglect, or abandonment?"	"Aliens, Immigration and Citizenship - Memo 136 - RK_64776.docx"	ROSS-003296595-ROSS-003296596
In re Sing W.C., 83 A.D.3d 84	24+179	The appointment of a guardian constitutes the necessary declaration of dependency on a juvenile court required for a juvenile to be eligible for special immigrant juvenile status. Immigration and Nationality Act, S 101(a)(27)(J)(i), 8 U.S.C.A. S 1101(a)(27)(J)(i); 8 C.F.R. S 204.11(c).	Is it required than an alien be under the age of 21 in order to be eligible for Special Immigrant Juvenile (SIJ) status?	006892.docx	LEGALEASE-00160116-LEGALEASE-00160117
Walling v. Cushman, 238 Mass. 62	8.30E+10	The maker of a note is ordinarily deemed to have bound himself in accordance with the laws of the place where it is payable and his contract is to be performed.	Is the maker of a note bound by the law of the place where the note is payable?	009271.docx	LEGALEASE-00160415-LEGALEASE-00160416
Johnston v. Gawtry, 83 Mo. 339	8.30E+10	The state in which a note is made payable, and in which it is delivered in consummation of a bargain, is the place of the contract.	Is the state where the note is payable and is delivered in consummation of a bargain the place of contract?	Bills and Notes-Memo 1404- JK_64843.docx	ROSS-003308200-ROSS-003308201
People v. Carcel, 3 N.Y.2d 327	129+132	Under subdivision of disorderly conduct statute proscribing as such conduct persons who congregate with others on a public street and refuse to move on when ordered by police, term "congregates with others" requires at the very least three persons assembling at a given time and place. Penal Law, S 722 and subd. 3.	Does assemblage of at least three persons constitute congregate with others?	014353.docx	LEGALEASE-00159424-LEGALEASE-00159425
Trustees of Univ. of Alabama v. Winston, 5 Stew. & P. 17	141E+990	The President and Trustees of the University of Alabama constitute a public corporation, and their charter may be altered, amended, or repealed by the legislature, at pleasure.	Does a university constitute a public corporation?	017144.docx	LEGALEASE-00159864-LEGALEASE-00159865
Fisher v. Bd. of Regents of Univ. of Nebraska, 108 Neb. 666	141E+1011	The Constitution of 1875, by adopting the University of Nebraska as a state institution under a charter declaring a purpose "to afford to the inhabitants of this state the means of acquiring a thorough knowledge of the various branches of literature, science, and the arts", (Laws 1869, p. 172, S 2), and by vesting its general government in a board of regents under the direction of the Legislature, did not prohibit the latter from imposing new and additional duties on the regents or from requiring them to establish and conduct a plant for the manufacture and distribution of hog cholera serum.	Are there limitations on legislative power over a university?	017146.docx	LEGALEASE-00159879-LEGALEASE-00159880
Witherell v. Kelly, 195 A.D. 227	156+52.15	An equitable estoppel need not rest upon a consideration, agreement, or legal obligation.	"MEMORANDUM # 1731. QuestionMust an equitable estoppel rest upon a consideration, agreement, or legal obligation?"	Estoppel - Memo #173 - C - CSS.docx	LEGALEASE-00049290-LEGALEASE-00049291

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Cochran v. Ozark Country Club, 339 So. 2d 1023	156+52(5)	Plaintiff cannot, by way of estoppel, endow with validity a transaction which is illegal and against public policy.	Can one by way of estoppel endow with validity a transaction which is illegal and against public policy?	Estoppel - Memo #200 - C - CSS_64537.docx	ROSS-003280135-ROSS-003280136
Peoples Bank & Tr. Co. v. Fid. & Cas. Co. of N. Y., 231 N.C. 510	170+113	"False pretense" is heart of forgery and principal difference between the two is that forgery exclusively pertains to a writing, while false pretense covers fraudulent deceits by parol.	How is false pretense different from forgery?	018435.docx	LEGALEASE-00159850-LEGALEASE-00159851
Gordon's Const. & Landfill v. Iberia Par. Gov't, 815 So. 2d 991	183+4	Generally, the claim that an exclusive franchise or privilege has been acquired is not regarded favorably, and in the absence of an express provision to that effect, grants of franchises are not construed to be grants of exclusive privileges; exclusive franchise does not arise by implication.	Are exclusive franchises favored under law?	018498.docx	LEGALEASE-00159980-LEGALEASE-00159981
Gordon's Const. & Landfill v. Iberia Par. Gov't, 815 So. 2d 991	183+4	In effect, the grantor of an exclusive franchise removes from itself the power and authority to grant similar rights to others or to permit others to engage in the same activity for which the exclusive franchise was awarded. LSA-R.S. 33:4169.1.	What are exclusive franchises?	Franchise - Memo 36 - KNR_64632.docx	ROSS-003293434-ROSS-003293435
Neils v. City of Seattle, 185 Wash. 269	183+2	Power to grant franchises is a sovereign power, resting in state, and may be delegated by state, but it is not within powers of cities unless expressly delegated to them by state.	Can the power to grant franchises be delegated by the State?	018510.docx	LEGALEASE-00160044-LEGALEASE-00160045
People v. Union Tr. Bank, 406 Ill. 208	106+219.10(5)	To authorize direct appeal to Supreme Court on ground that franchise is involved, there must be question as to validity or existence of corporation or franchise or right to exercise privileges of franchise. S.H.A. ch. 110, S 199.	Is the right to be a corporation a franchise?	018521.docx	LEGALEASE-00159797-LEGALEASE-00159798
Cohen v. Vill. of Kensington, 61 Misc. 2d 122	371+2233	Corporation's agreement to install and maintain new street lighting system on village realty and lease it to village for period of ten years did not result in "special franchise" taxable under Real Property Tax Law. Real Property Tax Law S 102, subd. 17.	What does the term special franchise with regard to real property tax law imply?	Franchises - Memo 17 - KNR_65689.docx	ROSS-003295010-ROSS-003295011
Hatch's Estate v. C.I.R., 198 F.2d 26	220+3933.1	For income tax purposes, sale of partnership interest in going concern should be treated as sale of capital asset, if the transaction in substance and effect, as distinguished from form and appearance, is essentially the sale of a partnership interest. 26 U.S.C.A. (I.R.C.1954) S 1202.	Should the sale of a partnership asset be treated as the sale of a capital asset?	022556.docx	LEGALEASE-00160242-LEGALEASE-00160243
Geiselman v. Andreson, 242 S.W. 798	289+768	Allegations of partnership can be controverted only by a special plea, denying under oath the fact of the partnership, and, unless so denied, such allegations are taken as confessed.	Can allegations of a partnership be taken as confessed if not denied under oath?	022604.docx	LEGALEASE-00160110-LEGALEASE-00160111
Anchor Centre Partners, Ltd. v. Mercantile Bank, N.A., 803 S.W.2d 23	289+535	Partner is agent of partnership for purposes of its business, and rights and liabilities of partner to other partners and third parties is largely determined by principles of agency. V.A.M.S. SS 358.040, subd. 3, 358.090, subd. 1.	Does the principle of agency govern a partners liability?	Partnership - Memo 547 - GP_64573.docx	ROSS-003280786-ROSS-003280787
BLDG Mgmt. Co. v. Meija, 32 Misc. 3d 652	388+14	Rule governing calendar defaults, restorations, and dismissals is applicable to Housing Court proceedings. N.Y.Ct.Rules, S 208.14.	"Is the rule governing calendar defaults, restorations, and dismissals applicable to Housing Court proceedings?"	039731.docx	LEGALEASE-00159284-LEGALEASE-00159285
Salvi v. Vill. of Lake Zurich, 2016 IL App (2d) 150249	307A+622	A motion to dismiss on the pleadings challenges the legal sufficiency of a complaint, based on defects apparent on its face, whereas a motion for involuntary dismissal admits the legal sufficiency of the complaint but asserts some other matter that defeats the claim. S.H.A. 735 ILCS 5/2-615, 5/2-619.	Does a motion to dismiss on the pleadings challenge the complaint's legal sufficiency?	039885.docx	LEGALEASE-00159746-LEGALEASE-00159747

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Salvi v. Vill. of Lake Zurich, 2016 IL App (2d) 150249	307A+622	A motion to dismiss on the pleadings challenges the legal sufficiency of a complaint, based on defects apparent on its face, whereas a motion for involuntary dismissal admits the legal sufficiency of the complaint but asserts some other matter that defeats the claim. S.H.A. 735 ILCS 5/2-615, 5/2-619.	Does a motion to dismiss on the pleadings challenge the complaint's legal sufficiency?	Pretrial Procedure - Memo 11374 - C - RF.docx	LEGALEASE-00049910- LEGALEASE-00049911
Lloyd Noland Found. v. HealthSouth Corp., 979 So. 2d 784	307A+561.1	Dismissal for failure to state a claim can be obtained on the basis of an affirmative defense when the affirmative defense appears clearly on the face of the pleading. Rules Civ.Proc., Rule 12(b)(6).	Can a dismissal be obtained when the affirmative defense appears clearly on the face of the pleading?	039937.docx	LEGALEASE-00159626- LEGALEASE-00159627
Del-Val Elec. Inspection Serv. v. Stroudsburg-E. Stroudsburg Zoning & Codes Office, 100 Pa. Cmwlth. 429	307A+583	Grant of petition for non pros rests with sound discretion of trial court.	Does the grant of petition for non pros rest with sound discretion of trial court?	040533.docx	LEGALEASE-00160234- LEGALEASE-00160235
Bridges v. Prod. Operators, 974 So. 2d 54	371+3602	The Louisiana sales and use tax is an excise tax, which is imposed upon the transaction itself, not the property involved in the transaction.	Is sales and use tax an excise tax that is imposed upon a transaction?	046206.docx	LEGALEASE-00160014- LEGALEASE-00160015
DaimlerChrysler Servs. N. Am. v. Arizona Dep't of Revenue, 210 Ariz. 297	371+3604	Gross receipts taxes are on the gross receipts from sales payable by the seller, in contrast to sales taxes, which are also levied on the gross receipts from sales but are payable by the buyer, although they are collected by the seller and remitted to the taxing entity.	What are gross receipts taxes?	Taxation - Memo 1099 - C - SU_65676.docx	ROSS-003293023
Durant v. State, 222 Ga. App. 872	3.77E+35	Under aggravated stalking law which requires, inter alia, making nonconsensual contact with another person for the purpose of harassing and intimidating the other person, "contact" means to get in touch with and communicate with another person. O.C.G.A. S 16-5-91(a).	"What does ""contact"" mean under aggravated stalking laws in regards to nonconsensual contact for the purpose of harassing and intimidating the other person?"	046910.docx	LEGALEASE-00160292- LEGALEASE-00160293
Light v. United States, 220 U.S. 523	92+2412	Legislative power was not unconstitutionally delegated to the Secretary of Agriculture by the provisions of the forest reserve act (Act June 4, 1897, c. 2, 30 Stat. 35 and Act Feb. 1, 1905, c. 288, S 5, 33 Stat. 628), making criminal the violation of the rules and regulations covering forest reservations, made and promulgated by him under authority of those statutes.	Is the Secretary of Agriculture authorized to make provisions for the protection against destruction by fire and depredations of the public forest and forest reservations?	Woods and Forests - Memo 10-ANM_64528.docx	ROSS-003309220-ROSS- 003309221
Aiken Bag Corp. v. McLeod, 89 Ga. App. 737	8.30E+76	A check is a mere order upon a bank to pay from the drawer's account and is subject to revocation by drawer at any time before it has been certified, accepted, or paid by the bank. Code, S 14-1707.	Can a check be revoked before it has been paid by the bank?	010555.docx	LEGALEASE-00160791- LEGALEASE-00160792
United States v. Reyes, 239 F.3d 722	110+1152.21(1)	Court of Appeals reviews district court's refusal to give requested jury instruction for abuse of discretion.	Did the district court abuse its discretion in refusing to instruct the jury on positional predisposition in prosecution for bribery?	012541.docx	LEGALEASE-00161705- LEGALEASE-00161706
Hudson v. Sch. Dist. No. 1, Lancaster Cty., 5 Neb. App. 908	135H+25	Civil penalty may constitute "punishment" for purpose of double jeopardy analysis. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 12.	"Can a civil penalty constitute ""punishment"" for a purpose of double jeopardy analysis?"	015156.docx	LEGALEASE-00160592- LEGALEASE-00160593

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United States v. \$455,273.72 in Funds from Bank of Am. Checking Account #~£0019-2067-7376 held in the name of the Voice of Soc. Concern Ass'n, 813 F. Supp. 2d 124	135H+25	In rem civil forfeitures are neither punishment nor criminal for purposes of the Double Jeopardy Clause. U.S.C.A. Const.Amend. 5; 18 U.S.C.A. SS 981, 985.	"Is an in rem civil forfeiture ""punishment"" for double jeopardy purposes?"	Double Jeopardy - Memo 93 - C - NS_65733.docx	ROSS-003320897-ROSS-003320898
Groves v. Prickett, 420 F.2d 1119	156+52.10(1)	Waiver can be employed only for defensive purposes, and although it can preclude assertion of rights it cannot be used to impose legal duties.	Can waiver be used to impose legal duties?	018106.docx	LEGALEASE-00161227-LEGALEASE-00161228
Clear Lake Ctr. v. Garden Ridge, 416 S.W.3d 527	156+52.10(3)	The elements of waiver include: (1) an existing right, benefit, or advantage held by a party; (2) the party's actual knowledge of its existence; and (3) the party's actual intent to relinquish the right, or intentional conduct inconsistent with the right.	What are the elements of waiver?	018114.docx	LEGALEASE-00161271-LEGALEASE-00161272
Moss v. Aetna Life Ins. Co., 73 F.2d 339	156+52.10(2)	Waiver must be supported by agreement founded on valuable consideration, in absence of conduct creating estoppel.	Should waiver be supported by an agreement founded upon valuable consideration?	Estoppel - Memo 264 - C - CSS_65743.docx	ROSS-003279419-ROSS-003279420
Barker & Bratton Steel Works v. N. River Ins. Co., 541 S.W.2d 294	257+157(7)	Conversation wherein officer for steel fabricator allegedly agreed to delivery of materials, prior to time mechanic's lien affidavit was due or filed, once officer for general contractor stated that surety had agreed to pay fabricator's claim for materials supplied was not evidence of an intentional relinquishment of rights or of conduct warranting an inference of such relinquishment by owner, contractor or surety and, hence, was not evidence of a waiver by owner, contractor or surety of defect appearing in mechanic's lien affidavit or timely filing thereof. Vernon's Ann.Civ.St. arts. 5453, 5472d.	Is waiver such conduct as warrants inference of the relinquishment of a right?	018178.docx	LEGALEASE-00161876-LEGALEASE-00161877
Paret v. Louisiana Highway Comm'n, 178 La. 454	200+79.5	Police jury widening road acquired only servitude over strips of land on each side of old road, and nonuse of one strip, for over ten years, together with use by fee owner, barred public's right to servitude. Rev.St. SS 3369, 3370; Civ.Code, arts. 658, 789.	Does the opening or laying out of a road vest in the Police Jury a right of passage over the land?	018833.docx	LEGALEASE-00161757-LEGALEASE-00161758
Perry v. Lee Cty., 71 Ark. App. 47	200+77(2)	County court did not have jurisdiction over petition to open county road, where only six freeholders, rather than the requisite ten freeholders, signed petition. A.C.A. SS 14-298-103(a), 14-298-117(a).	Does a petition to open a county road have to be signed by ten freeholders of the county?	Highways - Memo 440 - RK_66341.docx	ROSS-003281179-ROSS-003281180
Bloebaum v. Gen. Am. Life Ins. Co., 734 S.W.2d 539	217+1012	Medical and hospital expense insurance is not insurance in usual sense, providing benefits upon occurrence of an event; it is by definition contract of indemnity, intended to indemnify and hold insured harmless from obligations he is by law compelled to pay.	"Are medical and hospital expense insurance, insurance in the usual sense? "	Insurance - Memo 114 - SNJ_65771.docx	ROSS-003292732-ROSS-003292733
Stephanz v. Laird, 846 S.W.2d 895	289+453	Persons who intend to do things that constitute partnership are partners whether their expressed purpose was to create or avoid relationship.	"If the parties intend to do things that constitute a partnership, are they partners?"	022666.docx	LEGALEASE-00161315-LEGALEASE-00161316
Harris v. Johnson, 218 Ill. App. 3d 588	302+8(1)	To state cause of action properly, complaint must contain facts and not merely conclusions; cause of action will be dismissed if complaint contains mere conclusions unsupported by facts.	"Should a complaint contain facts, to state a cause of action properly?"	Pleading - Memo 607 - RMM_65792.docx	ROSS-003282596-ROSS-003282597

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Moore v. Sergi, 38 Conn. App. 829	302+38.5	The purpose of the complaint is to limit the issues to be decided at the trial of a case and to prevent surprise.	"Are limiting the issues to be decided at the trial and preventing surprise, purposes of a complaint?"	Pleading - Memo 617 - RMM_65802.docx	ROSS-003281965-ROSS-003281966
Prairie View A & M Univ. of Texas v. Mitchell, 27 S.W.3d 323	307A+695	It is not proper to dismiss an action when a legitimate pleading amendment will demonstrate the court's jurisdiction.	Does an appellate court not dismiss an action where a legitimate pleading amendment will demonstrate jurisdiction?	040229.docx	LEGALEASE-00161663-LEGALEASE-00161664
Lane v. Lensmeyer, 158 S.W.3d 218	307A+696.1	Once a petition is dismissed with prejudice, the trial court is powerless to reinstate it, including the filing of an amended petition.	"Once a petition is dismissed with prejudice, is the trial court powerless to reinstate it?"	Pretrial Procedure - Memo 11600 - C - SKG_65616.docx	ROSS-003278860-ROSS-003278861
Griffiths v. Helvering, 308 U.S. 355	220+3056	Taxation is not so much concerned with the refinements of title as it is with actual command over property taxed, that is, the actual benefit for which the tax is paid, and it makes no difference that such command may be exercised through specific retention of legal title or the creation of a new equitable but controlled interest or the maintenance of effective benefit through the interposition of a subservient agency.	Is taxation concerned with the actual command over the property taxed?	046295.docx	LEGALEASE-00161689-LEGALEASE-00161690
City of Zanesville v. Richards, 5 Ohio St. 589	371+2003	Without express authority of law, no tax for state, county, township, or corporate purposes can be levied.	Can tax be levied without express authority of law?	Taxation - Memo 1151 - C - JL_65485.docx	ROSS-003279171
Ajabu v. State, 677 N.E.2d 1035	3.77E+11	Word "communicate," as used in intimidation statute, encompasses those threats made known or transmitted to another person, and no requirement exists that threat be communicated directly to victim in order to support conviction. West's A.I.C. 35-45-2-1.	"What threats does the word ""communicate,"" as used in the intimidation statute, encompass?"	046955.docx	LEGALEASE-00161000-LEGALEASE-00161001
Walling v. Cushman, 238 Mass. 62	8.30E+12	Contract of indorsement being new and separate, its validity is determined generally by laws of state where made, and presumption of common law formulated in Negotiable Instruments Law is that unless contrary appears, indorsement is prima facie made at place where instrument is dated; and in suit against administrators of married woman who indorsed note dated and payable at Denver, Colo., it appearing that one note was made and indorsed in Illinois, there being no showing where others were made and indorsed, domicile of decedent was immaterial to her liability.	Does the law of the place determine the validity of a contract of indorsement?	009177.docx	LEGALEASE-00162670-LEGALEASE-00162671
Guernsey v. Imperial Bank of Canada, 188 F. 300	8.30E+14	The laws of the place where an indorsement is signed or is delivered so that it becomes a contract govern the necessity of some presentment, demand, and notice of dishonor.	Which law governs the validity and extent of the contract when the indorsement is delivered?	Bills and Notes - Memo 1332 - RK_66235.docx	ROSS-003294252-ROSS-003294253
Corbin Russwin v. Alexander's Hardware, 147 N.C. App. 722	95+129(1)	"Forum selection clause" designates the venue of any potential conflict arising out of a contract, whereas a "consent to jurisdiction clause" waives personal jurisdiction and venue, and a "choice of law clause" designates the law to be applied.	Does the choice of law clause designate the law to be applied?	Bills and Notes - Memo 1339 - RK_66242.docx	ROSS-003323536-ROSS-003323537
Nelson v. JPMorgan Chase Bank, N.A.	172H+1584	Real Estate Settlement Procedures Act (RESPA) provides no private right of action for technical violations of its disclosure mandates. Real Estate Settlement Procedures Act of 1974, S 2 et seq., 12 U.S.C.A. S 2601 et seq.	Does RESPA provide a private right of action for technical violations of its disclosure mandates?	Consumer Credit - Memo 232 - RK_66301.docx	ROSS-003293835-ROSS-003293836

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United States v. Clementi, 70 F.3d 997	135H+25	Double jeopardy does not attach to forfeiture of firearms found in possession of felon, as it is not punishment to take from a criminal that which law forbids him to possess. U.S.C.A. Const.Amend. 5; 18 U.S.C.A. SS 922(g)(1), 924(d).	Does double jeopardy not attach to forfeiture of firearms found in possession of a felon?	Double Jeopardy - Memo 120 - C - BP_65899.docx	ROSS-003279631
T.M. on behalf of T.M. v. Quakertown Cmty. Sch. Dist., 251 F. Supp. 3d 792	141E+878	School district placed elementary-aged autistic student in least restrictive environment capable of providing meaningful educational benefit under IDEA, although district did not implement recommendation of parents' evaluator in its entirety to reduce mainstreaming in favor of increase in one-on-one programming; evaluator's recommendation lacked details, student benefited from, and was making progress in, socialization, district adopted many recommended annual goals and plans, if one-on-one programming were implemented during school hours specially designed instruction would have required significant changes, district ensured regular contact with non-disabled peers and access to general education environment, and IEPs tracked progress with increasing and developing socialization opportunities. Individuals with Disabilities Education Act S 612, 20 U.S.C.A. S 1412(a)(5)(A).	Are school districts required to create an individualized education plan for disabled students under IDEA?	Education - Memo 333 - C - HJ.docx	LEGALEASE-00051889-LEGALEASE-00051891
Regents of Univ. of Minnesota v. Lord, 257 N.W.2d 796	141E+998	While legislature cannot place conditions on appropriations made to University of Minnesota for any purpose which would intrude on internal control and management of University by board of regents, legislature has power to impose reasonable conditions on use of funds appropriated by it to University if conditions are limited in scope and will promote general welfare.	Can the legislature impose reasonable conditions on the use of university funds?	017264.docx	LEGALEASE-00162116-LEGALEASE-00162117
Addicks Servs. v. GGP-Bridgeland, LP, 596 F.3d 286	156+52.10(3)	Silence or inaction, for so long a period as to show an intention to yield the known right, is enough to prove waiver, under Texas law.	Is silence or inaction enough to prove waiver?	018196.docx	LEGALEASE-00161914-LEGALEASE-00161915
Estate of Dormaier ex rel. Dormaier v. Columbia Basin Anesthesia, P.L.L.C., 177 Wash. App. 828	302+49	A complaint must identify the legal theory upon which the plaintiff seeks relief. CR 8.	Should a complaint identify the legal theory upon which the plaintiff seeks relief?	Pleading - Memo 624-RMM_66424.docx	ROSS-003279619-ROSS-003279620
Cepero v. Bank of New York Mellon Tr. Co., 189 So. 3d 204	266+1781	Mortgagors did not waive claim of insufficiency of service of process in foreclosure action, even though mortgagors moved to dismiss without asserting claim of insufficiency, made discovery requests, and moved for extension of time to file answer, where mortgagors asserted claim of insufficiency prior to court ruling on motion to dismiss, mortgagors' requests were not requests for affirmative relief, and mortgagors were never called on to answer complaint. West's F.S.A. RCP Rule 1.140(b).	"Where the initial motion to dismiss does not include a claim of lack of jurisdiction or insufficiency of service of process, are those claims waived?"	Pretrial Procedure - Memo 11535 - C - NS_65973.docx	ROSS-003311525-ROSS-003311526
Mississippi Baptist Med. Ctr. v. Powell ex rel. Powell, 101 So. 3d 694	307A+697	Mere denial of receipt of notice of dismissal for failure to prosecute a claim is insufficient to create a triable issue of fact in a subsequent lawsuit. Rules Civ.Proc., Rule 41(b).	Is a mere denial of a receipt insufficient to create a triable issue of fact in a subsequent lawsuit?	Pretrial Procedure - Memo 11809 - C - MS_66437.docx	ROSS-003294211-ROSS-003294212

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Esslinger v. Sun Ref. & Mktg. Co., 379 Pa. Super. 69	307A+697	Judgment of non pros may only be stricken when there are defects apparent on face of record.	Can a judgment of non pros only be stricken when there are defects apparent on a face of record?	040597.docx	LEGALEASE-00162340-LEGALEASE-00162341
Richmond Cty. Bus. Ass'n v. Richmond Cty., 224 Ga. 854	104+190.1	If there is any doubt as to power of county to tax in particular instance, it must be resolved in the negative.	"If there is any doubt as to the power of the county to tax in a particular instance, should it be resolved in the negative?"	Taxation - Memo 1007 - C - JL_66470.docx	ROSS-003284442-ROSS-003284443
In re State Tax on Foreign-Held Bonds, 82 U.S. 300	371+2068	The power of taxation of a state is limited to persons, property, and business within her jurisdiction. All taxations must relate to one of these subjects.	"Is the power of taxation of a state limited to persons, property, and business?"	046378.docx	LEGALEASE-00162088-LEGALEASE-00162089
Am. Oil Co. v. Neill, 380 U.S. 451	371+2008	When a tax is imposed on an out-of-state vendor, "nexus" between the taxing state and the taxpayer is the outstanding prerequisite of state power to tax, and consistent with such requirement there must be some definite link, some minimum connection, between a state and the person, property or transaction it seeks to tax.	What is the prerequisite on state power to tax where a tax is imposed on an out-of-state vendor?	046384.docx	LEGALEASE-00162099-LEGALEASE-00162101
Am. Fid. Fire Ins. Co. v. State Bd. of Equalization, 34 Cal. App. 3d 51	371+3602	Sales tax is an excise tax levied for privilege of conducting retail business in California. West's Ann.Rev. & Tax.Code, SS 6001-7176.	Is sales tax an excise tax levied for the privilege of conducting retail business?	046413.docx	LEGALEASE-00162522-LEGALEASE-00162523
GenOn Mid-Atl. v. Montgomery Cty., Md., 650 F.3d 1021	170B+2036	In determining whether charge is "tax," for purposes of Tax Injunction Act, court should consider: (1) what entity imposes charge; (2) what population is subject to charge; and (3) what purposes are served by use of monies obtained by charge. 28 U.S.C.A. S 1341.	What are the three factors that the courts look to when determining whether a particular charge is a fee or a tax?	046651.docx	LEGALEASE-00162438-LEGALEASE-00162439
Guernsey v. Imperial Bank of Canada, 188 F. 300	8.30E+14	The manner of giving and sufficiency of notice of dishonor is governed by the laws of the place where the note is payable.	Does the law of the place where a note is payable govern the manner of giving notice?	009237.docx	LEGALEASE-00162785-LEGALEASE-00162786
United States v. Le Duc, 48 F.2d 789	34+79(21)	Burden of proof to establish permanent and total disability while war risk term policy was in effect is upon plaintiff.	Who has the burden of proof to establish permanent and total disability while an insurance policy was in effect?	Armed Services - Memo 353 - RK_66873.docx	ROSS-003280284-ROSS-003280285
Daskam v. Ullman, 74 Wis. 474	38+97	By the assignment of a contract in writing at its face value, the assignor impliedly warrants that the maker is liable, unless the contrary clearly appears.	Is a maker liable upon an instrument when the assignor impliedly warrants the same?	009316.docx	LEGALEASE-00162973-LEGALEASE-00162974
Sawgrass Builders v. Realty Co-op., 172 Ga. App. 324	83E+695	A check is an unconditional promise to pay and a stop payment order does not discharge the maker's liability on the check.	Does a stop payment order discharge the maker's liability on a check?	Bills and Notes - Memo 1450 - RK_66508.docx	ROSS-003285252
First Nat. Bank & Tr. Co. of Augusta v. Georgia R.R. Bank & Tr. Co., 238 Ga. 693	8.30E+76	Once check had been acted upon by drawee bank, its drawer no longer had authority to stop payment. Code, SS 109A-4-303, 109A-4-403.	Does a drawer have authority to stop payment on a check that has been acted upon by a bank?	009337.docx	LEGALEASE-00163025-LEGALEASE-00163026

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United States v. Washington, 106 F.3d 983	63+14	Instruction that defendant could be convicted of bribery if he accepted a thing of value corruptly in return for being influenced to omit an act in violation of his official duty as police officer was supported by evidence that he thought undercover officer was a drug dealer, yet did not arrest him, begin investigation into his activities, or report him to the police department and that he accepted a bribe rather than taking appropriate police procedures and arresting undercover officer or making some type of report.	What are the essential elements for jury instruction in order to convict for bribery?	012571.docx	LEGALEASE-00162911- LEGALEASE-00162912
Kotche v. Cty. Bd. of Winnebago Cty., 87 Ill. App. 3d 1127	79+6	Actions of county board in controlling hiring and firing and conditions of employment of employees of clerk of circuit court were not within the board's budgetary and statutory authority. S.H.A. ch. 25, SS 9, 27.3; ch. 34, S 432.	"Does the Clerks of Court Act empower county boards to control the hiring, firing, promotion, or compensation of deputy clerks hired by the circuit court?"	013581.docx	LEGALEASE-00164104- LEGALEASE-00164105
United States v. Simonetti, 998 F.2d 39	135H+99	Retrial after properly declared mistrial does not automatically offend double jeopardy clause; instead, retrial is permissible after mistrial is declared over defendant's objection if mistrial was justified by manifest necessity. U.S.C.A. Const.Amend. 5.	Is a Double Jeopardy Clause not offended when the State seeks to retry a defendant after a series of properly declared mistrials?	Double Jeopardy - Memo 356 - C - SHS_66634.docx	ROSS-003293144-ROSS- 003293145
State v. Storer, 368 S.W.3d 293	135H+95.1	Dismissal filed after a jury has been impaneled and sworn is with prejudice, pursuant to statute, unless the defendant has consented to having the case dismissed without prejudice. V.A.M.S. S 56.087(2, 4).	When does a dismissal filed after a jury has been impaneled and sworn is with prejudice?	015415.docx	LEGALEASE-00163473- LEGALEASE-00163474
State v. Battle, 279 N.C. 484	135H+95.1	Generally, an order of mistrial in a criminal case will not support a plea of former jeopardy. G.S. SS 7A-31(b) (4), 14-89.1.	Does an order of mistrial in a criminal case support a plea of former jeopardy?	015421.docx	LEGALEASE-00163575- LEGALEASE-00163576
Osborn v. Bank of U.S., 22 U.S. 738	212+1463	An injunction will be granted to prevent the franchise of a corporation from being destroyed, as well as to restrain a party from violating it by attempting to participate in its exclusive privileges.	Does injunction prevent infringement of franchise?	Franchises - Memo 60 - KNR_66656.docx	ROSS-003280242-ROSS- 003280243
State v. Green, 896 N.W.2d 770	203+530	When an individual acts on state of mind which prompts one to do wrongful act intentionally without legal justification or excuse, the individual is said to have acted with malice aforethought.	What is malice aforethought?	Homicide - Memo 173 - RK.docx	LEGALEASE-00053467- LEGALEASE-00053468
Singer v. Siedband, 138 S.W.3d 750	302+46	Capacity in which a party sues must be determined from content of pleadings, not solely from captions or titles thereof.	Should the capacity in which a party sues be determined from the content of the pleadings?	Pleading - Memo 645 - RMM_67277.docx	ROSS-003283617-ROSS- 003283618
Hunter v. Gang, 132 Nev. Adv. Op. 22	30+3206	In considering whether to uphold a dismissal with prejudice by a district court entered pursuant to its inherent authority, the appellate court considers the same factors that are pertinent to the district court's exercise of discretion to dismiss an action with prejudice under the rule governing dismissal for want of prosecution and an appellate court's subsequent review of that decision. Rules Civ.Proc., Rule 41(e).	"Do courts have inherent authority to dismiss an action for want of prosecution, which is independent of any authority granted under statutes or court rules?"	Pretrial Procedure - Memo 12086 - C - DHA_67061.docx	ROSS-003282250-ROSS- 003282251
In re Montgomery Ward, 469 B.R. 522	349A+10	Under Illinois law, courts must analyze the economic reality of agreement to determine its true nature, and therefore determination of whether lease is true lease or financing agreement depends on circumstances of the case. S.H.A. 810 ILCS 5/1-203(a).	Should courts analyze the economic reality of an agreement to determine its true nature?	042747.docx	LEGALEASE-00164006- LEGALEASE-00164007

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Tyson v. Trigg, 50 F.3d 436	352H+55	Lack of consent is part of definition of rape and must therefore be proved by state beyond reasonable doubt under Indiana law. IC 35-42-4-1(a) (1988 Ed.).	Is lack of consent part of the definition of rape?	Sex Offenses - Memo 137 - RK_66940.docx	ROSS-003280067-ROSS-003280068
State v. Castagna, 387 N.J. Super. 598	3.77E+06	Purpose to be served by enactment of the harassment statute is to make criminal private annoyances that are not entitled to constitutional protection, and, thus, the substantive criminal offense of making or causing to be made, a communication likely to cause annoyance or alarm is directed at the purpose behind and motivation for making or causing the communication to be made. N.J.S.A. 2C:33-4a.	What is the purpose to be served by the enactment of the harassment statute?	"Threats, Stalking and Harassment - Memo 235 - C - LB_67272.docx"	ROSS-003283320-ROSS-003283321
In re Ryan D., 100 Cal. App. 4th 854	3.77E+10	Where accused did not personally communicate threat to victim, it must be shown that he specifically intended that threat be conveyed to victim. West's Ann.Cal.Penal Code S 422.	"If the accused did not personally communicate a threat to the victim, what must be shown?"	"Threats, Stalking and Harassment - Memo 239 - C - LB_66844.docx"	ROSS-003283260-ROSS-003283261
In re Ryan D., 100 Cal. App. 4th 854	3.77E+11	Criminal threat is specific and narrow class of communication; it is expression of intent to inflict serious evil upon another person. West's Ann.Cal.Penal Code S 422.	What is a criminal threat an expression of?	"Threats, Stalking and Harassment - Memo 242 - C - LB_66847.docx"	ROSS-003296519-ROSS-003296520
Johnson Assocs. Corp. v. HL Operating Corp., 680 F.3d 713	25T+210	Although a party can waive its contractual right to arbitration, because of the strong presumption in favor of arbitration, waiver of the right to arbitration is not to be lightly inferred.	Should waiver of the right to arbitration be lightly inferred?	008045.docx	LEGALEASE-00165012-LEGALEASE-00165013
Kruse v. AFLAC Int'l, 458 F. Supp. 2d 375	25T+179	Where party to arbitration agreement alleges that nonsignatory engaged in a conspiracy with signatory, nonsignatory may compel arbitration.	Can a nonsignatory compel arbitration when a party alleges a nonsignatory engaged in a conspiracy with a signatory?	008053.docx	LEGALEASE-00165001-LEGALEASE-00165002
In re LIBOR-Based Fin. Instruments Antitrust Litig., 935 F. Supp. 2d 666	83H+2	Neither Commodity Exchange Act (CEA) nor its legislative history specifically authorizes extraterritorial application of statute. Commodity Exchange Act, S 9(a)(2), 7 U.S.C.A. S 13(a)(2).	Does the Commodity Exchange Act (CEA) authorize extraterritorial application of the statute?	013624.docx	LEGALEASE-00164216-LEGALEASE-00164217
Hervey v. Rhode Island Locomotive Works, 93 U.S. 664	108H+21	The liability of property to be sold under legal process is determined by the law of the state where it is situated, and not that of the jurisdiction where the owner lives.	Under what law is the liability of property to be sold under execution determined by?	014089.docx	LEGALEASE-00165081-LEGALEASE-00165082
Gue v. Tide Water Canal Co., 65 U.S. 257	108H+37	The land or works essential to the enjoyment of a corporate franchise cannot be separated from it, and sold under a fi. fa., so as to destroy or impair the value of the franchise.	Can the land or works essential to the enjoyment of a franchise be separated from it?	014101.docx	LEGALEASE-00165095-LEGALEASE-00165097
Klein v. City of New Orleans, 99 U.S. 149	108H+40	If lands are held by a corporation for public purposes and the ground rents are part of the public revenues, they cannot be levied on or sold.	Can lands held for public purposes be levied or sold?	Creditors' Remedies - Memo 32 - RK_67501.docx	ROSS-003280574-ROSS-003280576
United States v. Ambers, 85 F.3d 173	135H+30	Enhancing sentence for conspiracy because of prior conviction which resulted from one of the overt acts supporting the conspiracy presents no double jeopardy problem; enhancement increases the sentence for the current conspiracy offense, not for the sentence for the distinct, prior offense. U.S.C.A. Const.Amend. 5.	"Does enhancement increase the sentence for the current conspiracy offense, not for the sentence for the distinct, prior offense?"	Double Jeopardy - Memo 1249 - C - NE_67551.docx	ROSS-003285148-ROSS-003285149

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State v. Cheek, 361 P.3d 679	135H+59	The merger doctrine does not apply before trial, because the double jeopardy protections attach only when an accused is put on trial and a jury has been sworn and impaneled. U.S.C.A. Const.Amend. 5.	Why does the merger doctrine not apply before trial?	016644.docx	LEGALEASE-00165103- LEGALEASE-00165104
State v. Metzinger, 456 S.W.3d 84	135H+59	In a court-tried case, jeopardy attaches when the court begins to hear evidence on the issue of guilt. U.S. Const. Amend. 5.	Can a jeopardy attach when the court begins to hear evidence on the issue of guilt?	016665.docx	LEGALEASE-00165147- LEGALEASE-00165148
Bd. of Educ. of City of Plainfield, Union Cty. v. Cooperman, 105 N.J. 587	141E+678	Commissioner of Department of Education could override power of boards of education to exclude students from public schools due to health reasons. N.J.S.A. 18A:40-7, 18A:40-10, 26:4-6.	Can students be excluded from school because they have a contagious disease?	017318.docx	LEGALEASE-00164364- LEGALEASE-00164365
Steinhart v. Cty. of Los Angeles, 47 Cal. 4th 1298	156+52(5)	In general, the law particularly disfavors estoppels where the party attempting to raise the estoppel is represented by an attorney at law.	Does the law disfavour estoppels where the party attempting to raise the estoppel is represented by an attorney at law?	018270.docx	LEGALEASE-00164423- LEGALEASE-00164424
Willow Springs Condo. Ass'n v. Seventh BRT Dev. Corp., 245 Conn. 1	302+370	A plaintiff may not allege one cause of action and recover upon another. Practice Book 1978, S 134.	Can a plaintiff allege one cause of action and recover upon another?	023957.docx	LEGALEASE-00164385- LEGALEASE-00164386
Therrien v. Mercantile-Commerce Bank & Tr. Co., 360 Mo. 149	302+34(6)	Where petition is not attacked until after verdict or judgment, intendments are to be taken most strongly in favor of pleader. V.A.M.S. S 509.250.	"Where a petition is not attacked until after judgment, are intendments taken most strongly in favor of the pleader?"	023959.docx	LEGALEASE-00164387- LEGALEASE-00164388
Holmstrom v. Lee, 26 S.W.3d 526	302+72	Only relief consistent with the facts and pleaded theories may be granted under a general prayer.	Will only the reliefs consistent with the facts and pleaded theories be granted under a general prayer?	023971.docx	LEGALEASE-00164603- LEGALEASE-00164604
Ross v. Petro, 515 F.3d 653	135H+99	The requirement of manifest necessity for a mistrial is not to be interpreted literally or applied mechanically, in determining whether retrial is barred by double jeopardy; what is required is a high degree of necessity. U.S.C.A. Const.Amend. 5.	Is the requirement of manifest necessity for a mistrial not to be interpreted literally or applied mechanically?	041000.docx	LEGALEASE-00164271- LEGALEASE-00164272
State v. Morris, 156 N.C. App. 335	135H+5.1	Defendant's constitutional right to be free from double jeopardy took precedence over State's interest and convenience in obtaining cumulative punishments. U.S.C.A. Const.Amend. 5.	Is the right to be free from double jeopardy a constitutional right?	041039.docx	LEGALEASE-00164441- LEGALEASE-00164442
Canyon v. State, 218 So. 3d 871	135H+1	A double jeopardy claim goes to the jurisdiction of the trial court to render judgment. U.S.C.A. Const.Amend. 5.	Does a double jeopardy claim go to the jurisdiction of the trial court to render judgment?	041050.docx	LEGALEASE-00164493- LEGALEASE-00164494
Camacho v. Chandeleur Homes, 862 So. 2d 540	307A+583	A trial court possesses the inherent authority to dismiss an action for want of prosecution; this power is a necessary means to the orderly expedition of justice and the trial court's control of its own docket. Rules Civ.Proc., Rule 41(b).	Does a court possess the inherent authority to dismiss an action for want of prosecution?	041111.docx	LEGALEASE-00164943- LEGALEASE-00164944
Moore v. Com., 254 Va. 184	352H+259	Penetration by penis of a vagina is essential element of crime of rape; proof of penetration, however slight the entry may be, is sufficient.	Is slight penetration sufficient to constitute rape?	Sex Offenses - Memo 26 - RK.docx	LEGALEASE-00054697- LEGALEASE-00054698
Dep't of Labor & Indus. of State of Wash. v. Fankhauser, 121 Wash. 2d 304	413+252	Sole proprietors and partners are expressly excluded from mandatory coverage under Industrial Insurance Act, are not required to participate in workers' compensation system, and are not considered "workers" or "employees" automatically covered under Act. West's RCWA 51.08.180, 51.08.185, 51.12.020, 51.12.020(5).	Who is expressly excluded under workers compensation?	048575.docx	LEGALEASE-00164655- LEGALEASE-00164656

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Peters v. Michienzi, 385 Mass. 533	413+186	Person who does not fall within homeowner's exemption because, for example, he does not "reside therein" or because structure is not "dwelling house" may, but need not necessarily, be "employer" within purview of Workmen's Compensation Act. M.G.L.A. c. 152, S 1(5).	When is homeowner not an employer?	048779.docx	LEGALEASE-00164309-LEGALEASE-00164310
Keller v. Old Lycoming Twp., 286 Pa. Super. 339	413+186	Meaning of "employer" under Workmen's Compensation Act is controlled by the legal interpretation of the Act and not by definitions that others care to give to that term. 77 P.S. S 1 et seq.	Is the meaning of employer under the Act controlled by the legal interpretation of the Act?	Workers' Compensation - Memo 750 - C - ANC_67249.docx	ROSS-003282069-ROSS-003282070
United States v. Young, 657 F.3d 408	135H+59	For the purposes of the Fifth Amendment Double Jeopardy Clause, jeopardy does not attach until the jury is empaneled and takes the oath. U.S.C.A. Const.Amend. 5.	Does jeopardy attach until the jury is empaneled and takes the oath?	014655.docx	LEGALEASE-00165467-LEGALEASE-00165468
People v. Shepard, 98 P.3d 905	135H+29.1	Imposition of consecutive sentences for two counts of sexual exploitation of child did not violate defendant's rights under state and federal double jeopardy clauses, where prosecution represented, at providency hearing, that evidence would have shown that defendant committed various acts against single victim, including taking five different photographs of her in sexually explicit poses. U.S.C.A. Const.Amend. 5; West's C.R.S.A. Const. Art. 2, S 18; West's C.R.S.A. S 18-1-408(3).	When would the defendant's rights under double jeopardy clause not be violated?	014674.docx	LEGALEASE-00165669-LEGALEASE-00165670
Bellew v. State, 304 Ga. App. 529	135H+59	Jeopardy attaches once a jury is impaneled and sworn, and a defendant has a the right under the Double Jeopardy Clause to be tried by the original impaneled jury. U.S.C.A. Const.Amend. 5.	Does the defendant have a right to be tried by the original impaneled jury?	014680.docx	LEGALEASE-00165678-LEGALEASE-00165679
People v. Henry, 172 Cal. App. 4th 530	135H+100.1	Jeopardy attaches when the jury is empaneled and sworn; jeopardy terminates when the jury arrives at a verdict, or when the trial judge enters a final judgment of acquittal. U.S.C.A. Const.Amend. 5; S.H.A. Const. Art. 1, S 10.	Does jeopardy terminate when the judge enters a final judgement of acquittal?	014756.docx	LEGALEASE-00166010-LEGALEASE-00166011
Washington v. Sobina, 387 F. Supp. 2d 460	110+577.14	It was appropriate to evaluate petitioner's speedy trial claim separately as to each of his trials where his first trial ended in a mistrial, and second and third trials resulted in a hung jury as to certain counts; because each retrial was legally appropriate and not a result of misconduct by the government, consolidating the periods of time leading up to each trial could inappropriately exaggerate the delay for speedy trial purposes. U.S.C.A. Const.Amend. 6.	Is it a violation of double jeopardy to have four trials?	016022.docx	LEGALEASE-00165744-LEGALEASE-00165745
People v. Monterroso, 34 Cal. 4th 743	135H+100.1	An acquittal requires more than a bar to further proceedings; it requires a disposition based upon a determination of the merits.	Do acquittals require a disposition based upon a determination of the merits to further proceedings?	016055.docx	LEGALEASE-00165803-LEGALEASE-00165804
State v. Salter, 425 N.J. Super. 504	135H+1	State Constitution's prohibition against double jeopardy protects against three distinct abuses: a second prosecution for the same offense after acquittal, a second prosecution for the same offense after conviction, and multiple punishments for the same offense. N.J.S.A. Const. Art. 1, par. 11.	What are the abuses double jeopardy protects against?	016088.docx	LEGALEASE-00165835-LEGALEASE-00165836

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
People v. Williams, 128 Ill. App. 3d 384	135H+95.1	Unless a defendant who has been placed in jeopardy consents to trial's interruption, or a mistrial occurs because of manifest necessity, the state is precluded from bringing defendant to trial again. U.S.C.A.Const. Amend. 5.	"Once defendant has been placed in jeopardy, does he have a right to have his guilt finally weighed by that tribunal?"	016228.docx	LEGALEASE-00165547-LEGALEASE-00165548
State v. C.J.F., 183 S.W.3d 841	135H+100.1	The time when jeopardy attaches in a jury trial serves as the lynchpin for all double jeopardy jurisprudence; after jeopardy attaches, any charge that is dismissed, waived, abandoned or on which the jury returns an acquittal may not be retried. U.S.C.A. Const.Amend. 5.	Does the time when jeopardy attaches in a jury trial serve as the lynchpin for all double jeopardy jurisprudence?	016246.docx	LEGALEASE-00165569-LEGALEASE-00165570
State v. Tate, 256 Conn. 262	110+295	Doubts about whether an offense is jeopardy-barred must be resolved in favor of the liberty of the citizen. U.S.C.A. Const.Amend. 5.	Are doubts about whether an offense is jeopardy-barred be resolved in favor of the liberty of the citizen?	016410.docx	LEGALEASE-00165207-LEGALEASE-00165208
Com. v. Phim, 462 Mass. 470	135H+1	The Fifth Amendment's prohibition on double jeopardy, and parallel Massachusetts statutory and common law, generally precludes the commonwealth from trying a defendant more than once for the same offense. U.S.C.A. Const.Amend. 5; M.G.L.A. c. 263, S 7.	Does the law preclude the commonwealth from trying a defendant more than once for the same offense?	Double Jeopardy - Memo 900 - C - RF_67689.docx	ROSS-003281120-ROSS-003281121
Villanueva v. State, 194 S.W.3d 146	135H+1	"Double jeopardy" is the principle that a person shall not be subject for the same offense to be twice put in jeopardy of life or limb. U.S.C.A. Const.Amend. 5; Vernon's Ann.Texas Const. Art. 1, S 14.	"Do double jeopardy principles protect individuals not against being twice punished, but against being twice put into jeopardy?"	016535.docx	LEGALEASE-00165355-LEGALEASE-00165356
State v. Weight, 868 N.W.2d 821	135H+1	Each case in which a double jeopardy violation is asserted must turn upon its own facts. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 12.	Should a double jeopardy violation turn upon its own facts in each case it is asserted?	015970.docx	LEGALEASE-00166327-LEGALEASE-00166328
Owens v. Trammell, 792 F.3d 1234	135H+1	The Double Jeopardy Clause prevents the government from placing a defendant in jeopardy twice for the same offense. U.S.C.A. Const.Amend. 5.	Does double jeopardy prevent the government from placing a defendant in jeopardy twice for the same offense?	015980.docx	LEGALEASE-00166335-LEGALEASE-00166336
Catchings v. State, 111 So. 3d 1238	135H+1	"Double jeopardy" consists of three separate constitutional protections: (1) protection against a second prosecution for the same offense after acquittal, (2) protection against a second prosecution for the same offense after conviction, and (3) protection against multiple punishments for the same offense. U.S.C.A. Const.Amend. 5.	What does double jeopardy consist of?	015990.docx	LEGALEASE-00166345-LEGALEASE-00166346
Williams v. State Farm Mut. Auto. Ins. Co., 202 Mich. App. 491	135H+1	Double jeopardy prohibits a person for the same offense to be twice put in jeopardy of life or limb. U.S.C.A. Const.Amend. 5.	Does double jeopardy prohibit a person for the same offense to be twice put in jeopardy of life or limb?	Double Jeopardy - Memo 658 - C - KG_68435.docx	ROSS-003282041-ROSS-003282042
AllGood Entm't v. Dileo Entm't & Touring, 726 F. Supp. 2d 307	13+27(1)	Promissory estoppel is an equitable doctrine that sounds in contract rather than tort, for purposes of applying New York choice-of-law rules to such claim.	Is promissory estoppel an equitable doctrine that sounds in contract rather than tort?	Action - Memo 960 - C _18yb4vvuELoB6_4nBeg M7Aqsgt3hg6Sw9.docx	ROSS-000000047-ROSS-000000048
Kerr v. First Commodity Corp. of Boston, 735 F.2d 281	83H+2	Commodities Exchange Act does not preempt punitive damages awards for common-law fraud in commodities transactions. Commodity Exchange Act, SS 1-19, as amended, 7 U.S.C.A. SS 1-24.	Does Commodity Exchange Act preempt punitive damage awards for common law fraud in commodities transactions?	013595.docx	LEGALEASE-00167033-LEGALEASE-00167034

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Mormels v. Girofinance, S. A., 544 F. Supp. 815	83H+2	Securities cases and principles are used as persuasive aids to interpretation of the Commodity Exchange Act. Securities Act of 1933, SS 1 et seq., 17(a), 15 U.S.C.A. SS 77a et seq., 77q(a); Securities Exchange Act of 1934, SS 1 et seq., 10(b), 15 U.S.C.A. SS 78a et seq., 78j(b); Commodity Exchange Act, SS 1 et seq., 4b, 4d, 7 U.S.C.A. SS 1 et seq., 6b, 6d.	Are securities cases and principles used as persuasive aids to interpretation of the Commodity Exchange Act?	Commodity Future Trading Regulation - Memo 54 - C - JL_68715.docx	ROSS-003308431-ROSS-003308432
Taylorville City v. Adkins, 145 P.3d 1161	135H+100.1	Acquittals, unlike convictions, terminate the initial jeopardy, whether they are express or implied by a conviction on a lesser included offense; thus, whether the trial is to a jury or to the bench, subjecting the defendant to postacquittal factfinding proceedings going to guilt or innocence violates the Double Jeopardy Clause. U.S.C.A. Const.Amend. 5.	"Do acquittals, unlike convictions, ""terminate"" the initial jeopardy?"	015875.docx	LEGALEASE-00166685-LEGALEASE-00166686
Greater Poughkeepsie Library Dist. v. Town of Poughkeepsie, 81 N.Y.2d 574	371+2016	Taxing power may be delegated to legislative bodies of municipalities and quasi-municipal corporations. McKinney's Const. Art. 3, S 1; Art. 16, S 1.	Can the taxing power be delegated to legislative bodies of municipalities and quasi-municipal corporations?	046569.docx	LEGALEASE-00166551-LEGALEASE-00166552
Sch. Dist. of Philadelphia v. Frankford Grocery Co., 376 Pa. 542	371+2016	The grant by the legislature of the right to levy taxes is to be strictly construed and is not to be extended by implication.	"Where the legislature delegates the right to tax to a political sub division, should grant of such right is to be strictly construed, and not extended by implication?"	Taxation - Memo 1347 - C - SBH.docx	LEGALEASE-00056706-LEGALEASE-00056707
Johnson v. Genesee Cty., Mich., 232 F. Supp. 567	371+2016	Power of taxation is vested exclusively in legislative branch of government and may be delegated by Legislature to municipal corporations.	Can the taxing power vested in Legislature be delegated to municipalities?	046630.docx	LEGALEASE-00166817-LEGALEASE-00166818
Hill v. Roberts, 142 Tenn. 215	371+2013	A state, having full control of counties and cities, in the matter of taxation at least, may authorize them to levy a tax, or may direct them to levy a tax, or may itself directly tax for their benefit.	Can a state directly tax for its benefit?	046634.docx	LEGALEASE-00166827-LEGALEASE-00166828
Hatfield v. Green, 840 So.2d 759	289+453	Absent an express agreement, the chief criterion in determining the existence of a partnership is the parties' intent and this intent may be inferred from the parties' actions and conduct. West's A.M.C. S 79-12-11.	Can the existence of a partnership be determined absent an express partnership agreement?	Partnership - Memo 66 - RK.docx	ROSS-003285799-ROSS-003285800
Hatfield v. Green, 840 So.2d 759	289+453	Absent an express agreement, the chief criterion in determining the existence of a partnership is the parties' intent and this intent may be inferred from the parties' actions and conduct. West's A.M.C. S 79-12-11.	Can the existence of a partnership be determined absent an express partnership agreement?	10826.docx	LEGALEASE-00081440-LEGALEASE-00081441
Commonwealth v. Butterick, 100 Mass. 12	8.30E+66	An order for the payment of money drawn by a person on himself, payable to his own order, and by himself accepted and indorsed, may be treated as a bill of exchange.	"Is a bill drawn by a person, payable to his own order, a bill of exchange? "	00994.docx	LEGALEASE-00081653-LEGALEASE-00081655
State v. Crisman, 123 Idaho 27	221+179	Receiving state's executive branch must recognize sovereignty of other state before diplomatic immunity exists.	Should the receiving state recognize the sovereignty of the other state before diplomatic immunity exists?	05720.docx	LEGALEASE-00082155-LEGALEASE-00082156

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Greer v. Nat'l Grid, 89 A.D.3d 1059	249+26	In action, inter alia, to recover damages for malicious prosecution, allegation that criminal prosecution would not have been initiated against plaintiff had defendant properly trained and supervised its employees failed to state cognizable claim, since action arose from same facts as first cause of action alleging malicious prosecution, allegations of negligence did not support malicious prosecution cause of action, and cause of action to recover damages for negligent prosecution was not recognized in New York.	Does negligent prosecution supports malicious prosecution?	06586.docx	LEGALEASE-00082185- LEGALEASE-00082186
Lim v. Offshore Specialty Fabricators, 404 F.3d 898	25T+116	Foreign arbitration clauses are deemed a subset of foreign forum selection clauses in general; therefore, analysis of foreign forum selection clauses can be extended to foreign arbitration clauses.	Do courts consider foreign arbitration clauses as a subset of foreign forum selection clauses?	06564.docx	LEGALEASE-00082203- LEGALEASE-00082205
In re N.B., 199 P.3d 16	209+138	Court of Appeals would decline to adopt judicially created "existing Indian family exception" to the Indian Child Welfare Act (ICWA), under which ICWA would be applied only to removal of Indian children who were members of an Indian home and participated in Indian culture, in proceeding in which stepmother petitioned to terminate mother's parental rights and to adopt Indian child. Indian Child Welfare Act of 1978, S 2 et seq., 25 U.S.C.A. S 1901 et seq.	When does the Indian Child Welfare Act (ICWA) apply?	05055.docx	LEGALEASE-00083736- LEGALEASE-00083737
Illinois v. Rodriguez, 497 U.S. 177	35+68.2(1)	Fourth Amendment generally prohibits warrantless entry of person's home, whether to make arrest or to search for specific objects. U.S.C.A. Const.Amend. 4.	Do warrantless inspections violate the fourth amendment?	05122.docx	LEGALEASE-00084184- LEGALEASE-00084185
In re Gardner, 534 A.2d 947	368+1	Patient's decision, made prior to accident not to be kept alive in persistent vegetative state by life-sustaining procedures was not suicide inasmuch as grievous injuries resulting in vegetative condition were not self-inflicted.	Will a persons right not to be kept alive in a persistent vegetative state by life-sustaining procedures amount to suicide?	05166.docx	LEGALEASE-00084229- LEGALEASE-00084230
In re Gardner, 534 A.2d 947	368+1	Patient's decision, made prior to accident not to be kept alive in persistent vegetative state by life-sustaining procedures was not suicide inasmuch as grievous injuries resulting in vegetative condition were not self-inflicted.	Will a persons right not to be kept alive in a persistent vegetative state by life-sustaining procedures amount to suicide?	05640.docx	LEGALEASE-00084275- LEGALEASE-00084276
Illinois v. Rodriguez, 497 U.S. 177	35+68.2(1)	Fourth Amendment generally prohibits warrantless entry of person's home, whether to make arrest or to search for specific objects. U.S.C.A. Const.Amend. 4.	Do warrantless inspections violate the fourth amendment?	05596.docx	LEGALEASE-00084311- LEGALEASE-00084312
Kiobel v. Royal Dutch Petroleum Co., 621 F.3d 111	221+104	To attain the status of a rule of customary international law, a norm must be specific, universal, and obligatory. Rest. 3rd, Restatement of the Foreign Relations Law of the United States S 102(2).	"Should a ""norm of international law"" be specific, universal, and obligatory? "	05682.docx	LEGALEASE-00085019- LEGALEASE-00085020
Barclaysamerican Corp. v. Kane, 746 F.2d 653	170A+1604(1)	Party seeking to assert attorney-client privilege or a work product doctrine as a bar to discovery has burden of establishing that either or both is applicable.	Who has the burden of demonstrating that the privilege is applicable?	05871.docx	LEGALEASE-00089185- LEGALEASE-00089186
In re Involuntary Dissolution of Battle Creek State Bank, 254 Neb. 120	172H+202	Banking corporations are quasi-public institutions in the sense that whole stream of commerce, whether interstate or intrastate, largely depends upon their existence.	Does a bank possess a quasi-public character?	10801.docx	LEGALEASE-00089311- LEGALEASE-00089313

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United States v. O'Brien, 994 F. Supp. 2d 167	63+13	Generally, in a bribery case, whether wages are bona fide and paid in the usual course of business are questions of fact for the jury. 18 U.S.C.A. S 666(c).	"Does 18 U.S.C. 666(c) apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business or are they exempted?"	01674.docx	LEGALEASE-00092050-LEGALEASE-00092051
United States v. Yonan, 623 F. Supp. 881	319H+50	Just as enterprise itself must amount to more than sheer pattern of racketeering activity, for purposes of Racketeer Influenced and Corrupt Organizations Act (18 U.S.C.A. S 1962(c)), one does not "associate with" enterprise by committing crimes against it.	"For purposes of RICO, can someone ""associate with"" an enterprise by committing crimes against it?"	10792.docx	LEGALEASE-00094234-LEGALEASE-00094235
Stuckey v. State, 141 Md. App. 143	63+1(1)	Whether public servant was actually controlled or influenced is irrelevant to bribery offense, so long as payment was accepted or solicited with the intent to control the public servant. West's A.I.C. 35-44-1-1.	Does a bribery conviction require the prosecution to prove that the public official was actually influenced or controlled?	09966.docx	LEGALEASE-00095579-LEGALEASE-00095580
Czarobski v. Lata, 227 Ill. 2d 364	307A+561.1	A motion for involuntary dismissal based upon certain defects or defenses admits the legal sufficiency of the plaintiff's claim but asserts affirmative matter outside of the pleading that defeats the claim. S.H.A. 735 ILCS 5/2-619(a)(9).	"Is a dismissal for failure to establish good cause for service of the summons and complaint within six months after filing the complaint, equivalent to a failure to prosecute? "	09909.docx	LEGALEASE-00096138-LEGALEASE-00096139
Howard v. Frost Natl Bank, 458 S.W.3d 849	307A+681	Courts disregard conclusions not supported by facts in the context of assessing a motion to dismiss.	Do courts disregard conclusions not supported by facts in the context of assessing a motion to dismiss?	05297.docx	LEGALEASE-00096640-LEGALEASE-00096641
Golf Tr. of Am. v. Soat, 355 Ill. App. 3d 333	302+1	A "pleading" is defined as a formal document in which a party to a legal proceeding, especially a civil lawsuit, sets forth or responds to allegations, claims, denials, or defenses.	What is a pleading?	Pleading - Memo 18 - VP.docx	ROSS-003283381-ROSS-003283382
In re Hass, 273 B.R. 45	25T+113	Consensual resolution of litigation has been favored in the law from time immemorial, whether by the parties themselves, or through mediation or other techniques of dispute resolution.	Is consensual resolution of litigation favored in law?	001017.docx	LEGALEASE-00118106-LEGALEASE-00118107
Matthews v. Malkus, 377 F. Supp. 2d 350	386+1	Under New York law, requisite elements for claim of trespass are: (1) intentional entry by defendants onto plaintiff's land, and (2) wrongful use without justification or consent.	What are the elements of a trespass claim?	000723.docx	LEGALEASE-00118516-LEGALEASE-00118517
Hogoboom v. State, 120 Neb. 525	146+29	Value of property constitutes essential element of information charging embezzlement. Comp.St.1922, S 10154, and S 9629, as amended by Laws 1923, c. 95.	Does value of property constitute an essential element of information charging embezzlement?	001238.docx	LEGALEASE-00118589-LEGALEASE-00118591
People v. Catlin, 26 Cal. 4th 81	203+566	As long as the jury finds in murder prosecution that without the criminal act the death would not have occurred when it did, it need not determine which of the concurrent causes was the principal or primary cause of death, but only whether the criminal act was a substantial factor contributing to the result, even if victim's preexisting physical condition was also a substantial factor causing death.	Can a victims preexisting physical condition destroy defendants responsibility for a death?	001732.docx	LEGALEASE-00118867-LEGALEASE-00118868
N. Utilities Div. of K N Energy v. Town of Evansville, 822 P.2d 829	366+1	Since causes of action for damage or injury to persons and property survive and are assignable, they can be subject of claim for conventional subrogation. W.S.1977, S 1-4-101.	Is assignment of a cause of action for damage or personal injury subject of a subrogation claim?	003641.docx	LEGALEASE-00120423-LEGALEASE-00120424
In re E.M.V., 312 S.W.3d 288	30+5	For purposes of the requirement that the error complained of must be apparent from the face of the record for a restricted appeal to be reviewable, the "face of the record" consists of all the papers on file in the appeal, including the reporter's record. Rules App.Proc., Rule 30.	What consists in the face of the record for the purpose of a restricted appeal?	008163.docx	LEGALEASE-00122013-LEGALEASE-00122014

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Nat'l Coal. Gov't of Union of Burma v. Unocal, 176 F.R.D. 329	221+515	Party asserting applicability of act of state doctrine bears burden of proof; at minimum, this burden requires that party offer some evidence that government acted in its sovereign capacity and some indication of depth and nature of government's interest.	Who bears the burden of proof when an assertion that the act of state doctrine is applicable is made?	020768.docx	LEGALEASE-00123554- LEGALEASE-00123555
Beaty v. Republic of Iraq, 480 F. Supp. 2d 60	221+342	"Act-of-state" doctrine bars courts from adjudicating a case when the relief sought or the defense interposed would require a court in the United States to declare invalid the official act of a foreign sovereign performed within its boundaries.	"Is the act of state doctrine is an inquiry into a consequence of domestic separation of powers, and it directs the court to dismiss the suit if its resolution would require the court to declare invalid an official act of a foreign sovereign?"	020035.docx	LEGALEASE-00123558- LEGALEASE-00123559
Borough of Scottsdale v. Nat'l Cable Television Corp., 476 Pa. 47	317A+112	The category of business activities affected with public interest which can be subjected to regulation as public utilities is not a closed category.	s there a closed category of business activities affected with public interest?	042385.docx	LEGALEASE-00126346- LEGALEASE-00126347
Bear v. Fleming, 714 F. Supp. 2d 972	1.41E+31	Courts do not and cannot intervene in the resolution of conflicts which arise in the daily operation of school systems and which do not directly and sharply implicate basic constitutional values.	"As a general rule, can courts intervene in the resolution of conflicts which arise in the daily operation of school systems which do not directly and sharply implicate basic constitutional values?"	016746.docx	LEGALEASE-00127108- LEGALEASE-00127109
State ex rel. Little Prairie Special Rd. Dist. of Pemiscot Cty. v. Thompson, 315 Mo. 56	200+121	Road district, being municipal corporation, can levy general taxes on property within its boundaries for purposes of district.	Can a road district levy general taxes on property?	018792.docx	LEGALEASE-00129051- LEGALEASE-00129052
Copar Pumice Co. v. Bosworth, 502 F. Supp. 2d 1200	260+29	The Forest Service is authorized to manage surface resources by federal statute, but not to interfere with mining claims. Multiple Use Mining Act of 1955, S 4, 30 U.S.C.A. S 612.	Is the Forest Service authorized to manage surface resources?	047580.docx	LEGALEASE-00129127- LEGALEASE-00129128
Senseley v. First Nat. Life Ins. Co., 205 La. 61	307A+501	Plaintiff has control of a suit and the right to discontinue or dismiss it at any time except where rights of defendant are prejudiced, and as respects a reconventional demand the defendant has similar control and rights. Code Prac. art. 491.	Does a plaintiff have control of a suit and the right to discontinue or dismiss it at any time?	026227.docx	LEGALEASE-00129135- LEGALEASE-00129136
Scates v. Arizona Corp. Comm'n, 118 Ariz. 531	30+14(2)	Superior court's entry of judgment based on specific mandate and opinion of Court of Appeals is nonappealable.	Is a superior court's entry of judgment based on a specific mandate appealable?	008238.docx	LEGALEASE-00129451- LEGALEASE-00129452
Malerbi v. Cent. Reserve Life of N. Am. Ins. Co., 225 Neb. 543	307A+742.1	Pretrial conferences are conducted to simplify issues, amend pleadings, and avoid unnecessary proof of facts at trial and to avoid traps and surprises at trial.	hat is the purpose of pretrial conference and what does it avoid?	026373.docx	LEGALEASE-00130032- LEGALEASE-00130033
Bd. of Trustees of City of Delray Beach Police & Firefighters Ret. Sys. v. Citigroup Glob. Markets, 622 F.3d 1335	25T+141	Determination of whether a signatory has authority to bind non-signatory to arbitrate turns on specific facts of each case.	How do courts determine the authority of a signatory to a bind non-signatory to arbitrate?	007350.docx	LEGALEASE-00130207- LEGALEASE-00130208
Elwood v. Panhandle Concrete Co., 236 Neb. 751	307A+750	Generally, issues delineated in unaltered pretrial order supplant issues raised in pleadings.	"Do issues delineated in unaltered pretrial order, supplant issues raised in pleadings? "	027358.docx	LEGALEASE-00130548- LEGALEASE-00130549
United States v. Nagin, 810 F.3d 348	63+1(1)	A conviction for bribery or "honest-services" wire fraud does not require proof that the official intended to be influenced in his official actions. 18 U.S.C.A. S 201(b)(2).	Does the conviction for bribery require proof that the official intended to be influenced in his official actions?	011110.docx	LEGALEASE-00130639- LEGALEASE-00130640

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State ex rel. Froedtert Grain & Malting Co. v. Tax Comm'n of Wis., 221 Wis. 225	92+2525	Legislature cannot by designation change nature of tax, but it is for court to determine nature and effect of tax and uphold or avoid it according as its nature and effect as determined may require (Const.Wis. art. 8, S 1).	Is the nature of a tax determined by its designation made by the legislature?	044635.docx	LEGALEASE-00131474-LEGALEASE-00131475
State v. Bd. of Comm'rs of Marion Cty., 170 Ind. 595	200+18	All roads laid out under legislative enactment are public highways belonging to the state, under full control of the Legislature, which may, in the absence of constitutional limitations, exercise such control directly.	Do all roads laid out under legislative enactment belong to the State?	Highways -Memo 100 - DB.docx	ROSS-003332013-ROSS-003332014
Northpark Assocs. No. 2, Ltd. v. Homart Dev. Co., 262 Ga. 138	200+80	Governing authority can acquire fee simple title to county road only through condemnation or express grant in deed or other instrument.	How can a governing authority acquire fee-simple title to a county road?	018930.docx	LEGALEASE-00134333-LEGALEASE-00134334
Madison Assocs. v. Bass, 158 Ill. App. 3d 526	388+26	Substitution of attorneys after commencement of trial does not constitute good cause for granting continuance.	Is the substitution of attorneys after the commencement of trial a good cause for granting continuance?	029249.docx	LEGALEASE-00135510-LEGALEASE-00135511
United States v. Kabot, 295 F.2d 848	63+14	Court in prosecution for bribery of internal revenue agent properly instructed jury to disregard question of merits of tax case involved.	Was it proper for the court in a bribery case of an internal revenue agent to disregard the question of the merits of the tax case involved and exclude it from evidence?	011495.docx	LEGALEASE-00135852-LEGALEASE-00135853
Hobby v. State, 480 S.W.2d 554	67+7	Specific ownership of building is not an essential element which needs to be proved in prosecution for burglary; title, as far as law of burglary is concerned, follows possession and possession constitutes sufficient ownership as against burglar.	Is burglary an offense against possession?	012648.docx	LEGALEASE-00135866-LEGALEASE-00135867
In re Crown Castle Int'l Corp., 247 S.W.3d 349	307A+36.1	Under Delaware law, derivative plaintiffs are not entitled to discovery in order to demonstrate presuit demand futility.	Are derivative plaintiffs not entitled to discovery in order to demonstrate presuit demand futility?	031246.docx	LEGALEASE-00137197-LEGALEASE-00137198
Erlandson v. Erskine, 76 Mont. 537	8.30E+266	Renewal note is treated as new transaction on new promise, if parties' intention was to extinguish original note.	Can a renewal note be treated as a new transaction or promise if governed by the intention of parties?	009399.docx	LEGALEASE-00138776-LEGALEASE-00138777
The N. Carolina State Bar v. Key, 189 N.C. App. 80	388+395(5)	"Ultimate facts" are the final facts required to establish the plaintiff's cause of action or the defendant's defense, and "evidentiary facts" are those subsidiary facts required to prove the ultimate facts.	Are evidentiary facts those facts necessary to prove the ultimate facts?	023446.docx	LEGALEASE-00140843-LEGALEASE-00140844
Alaska S.S. Co. v. State, 31 Wash. 2d 328	371+2005	The taxing power of a state is one of its attributes of sovereignty and may be exercised at discretion of state subject to constitutional limitations. U.S.C.A.Const. art. 1, S 10, cl. 2.	Is the taxing power of a state subject to constitutional limitations?	045550.docx	LEGALEASE-00141811-LEGALEASE-00141812
United States v. Jacobs, 431 F.2d 754	63+1(1)	Under statute against corruptly giving, offering or promising anything of value to any public official with intent to influence any official act or to influence official to commit any fraud or make opportunity for commission of any fraud on United States or to induce official to do or omit to do any act in violation of his lawful duty, attempted bribery is a crime and so long as bribe is offered or promised with requisite intent to influence any official act, the crime is committed. 18 U.S.C.A. S 201(b).	When is attempted bribery completed?	012190.docx	LEGALEASE-00142463-LEGALEASE-00142464
State v. Mitchell, 106 Ariz. 492	352H+187	It is presumed that male person charged with assault with intent to commit rape is over 18 years of age.	Is there a presumption that a male charged with assault with intent to commit rape is over 18 years of age?	043117.docx	LEGALEASE-00143500-LEGALEASE-00143501

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Allwein v. Horn, 558 So. 2d 810	307A+746	Dismissal with prejudice is a severe penalty and should be imposed only in extreme circumstances where plaintiff is clearly aware that his noncompliance with statutory provision outlining pretrial procedure and empowering district court with discretion to order pretrial conference and issue orders concerned therewith will result in dismissal of action. LSA-C.C.P. art. 1551.	Is dismissal with prejudice a severe penalty and should be imposed only in extreme circumstance?	035534.docx	LEGALEASE-00146180- LEGALEASE-00146181
Wolfe v. Gober, 11 Vet. App. 1	34+62	Policies of National Service Life Insurance (NSLI) are contracts of United States and possess same legal incidence as other government contracts.	Are National Service Life Insurance policies considered contracts of the United States?	008701.docx	LEGALEASE-00146547- LEGALEASE-00146548
Lai Chan v. Chinese-Am. Planning Council Home Attendant Program, 180 F. Supp. 3d 236	231H+1549(11)	Employees' wage-related claims under New York law and Fair Labor Standards Act (FLSA) against employer fell within scope of arbitration provision in collective bargaining agreement (CBA) between employees' bargaining representative and employer, which required that all wage and hour-related claims be submitted to arbitration, even though claims accrued prior to execution of modified CBA which added arbitration provision, where arbitration provision did not contain provision placing temporal limitation on arbitrability. Fair Labor Standards Act of 1938 S 6, 29 U.S.C.A. S 206.	Can an arbitration provision cover claims that accrued prior to the execution of the agreement to arbitrate?	007834.docx	LEGALEASE-00148869- LEGALEASE-00148870
Kain v. Walke, 12 Ala. 184	83E+496	The death and insolvency of the maker of a note is a sufficient excuse for the failure of the assignee to prosecute a suit against him to judgment, execution, and a return of "No property found."	Can insolvency of the maker of a note a sufficient excuse?	010637.docx	LEGALEASE-00149443- LEGALEASE-00149444
Mathews v. Federated Serv. Ins. Co., 122 Or. App. 124	307A+622	Court may grant a pretrial motion to dismiss only if complaint, on its face, fails to state a claim. Rules Civ.Proc., Rule 21, subd. A(8).	"On a pre-trial motion to dismiss, can the trial court dismiss only if the pleading on its face fails to state a claim?"	036770.docx	LEGALEASE-00150098- LEGALEASE-00150099
Jones v. Madison Cty. Comm'rs, 137 N.C. 579	104+24	Const. art. 7, S 7, declares that no county shall contract any debt, pledge its faith, or loan its credit, and that no tax shall be levied, except for the necessary expenses thereof, unless by a vote of a majority of the qualified voters; and section 14 provides that the General Assembly shall have power by statute to modify, change, or abrogate any and all of the provisions of article 7, except sections 7, 9, and 13-section 9 requiring uniform taxation, and section 13 relating to debts of the Confederate government. Held, that Laws 1903, p. 490, c. 289, requiring the funding of the floating indebtedness and the refunding of certain bonds of Madison county, and requiring the laying of a tax for the payment of the bonds, is not in excess of the legislative authority, though the county offices are created by Const. art. 7; the debts in question having been for necessary expenses, and the Legislature, except as limited, having power to supervise and control the action of county officers in governmental matters. Judgment (1904) 47 S.E. 753, 135 N.C. 218, reversed on rehearing.	Does the legislature have power to compel a county to levy a tax for road purposes?	019100.docx	LEGALEASE-00150566- LEGALEASE-00150567
Barrett v. Dodge, 16 R.I. 740	8.30E+10	If no particular place of payment is specified in a note, the law of the place of contract governs as to the obligation and duty imposed on the maker.	Which law governs a note where no particular place of payment is specified?	009789.docx	LEGALEASE-00151610- LEGALEASE-00151611

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Valeriano-Cruz v. Neth, 14 Neb. App. 855	21+12	An "affidavit" is a written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation; an affidavit must bear on its face, by the certificate of the officer before whom it is taken, evidence that it was duly sworn to by the party making the same.	Should the affidavit bear on its face to have been taken before the proper officer?	006626.docx	LEGALEASE-00152951- LEGALEASE-00152952
Harris v. Tower Loan of Mississippi, 609 F.2d 120	172H+1561	Where a transaction is rescinded under Truth in Lending Act, the creditor is not barred from offsetting the value owed to it by the obligor from the sum it initially tendered to the obligor. Truth in Lending Act, S 125(b), 15 U.S.C.A. S 1635(b).	Can the creditor offset the value owed to it by the obligor from the sum it initially tendered to the obligor?	013807.docx	LEGALEASE-00155649- LEGALEASE-00155650
Harris v. McKay, 138 Va. 448	308+92(1)	Where an agent's authority is proved, no question of privity can arise. The doctrine of principal and agent, whether disclosed or undisclosed, recognizes that privity of contract exists between the principal and one dealing with the agent. The act of the agent is the act of the principal.	Does the doctrine of principal and agent recognize that privity of contract exists?	Principal and Agent - Memo 343 - RK_61931.docx	ROSS-003296748-ROSS- 003296749
Palmer v. Champion Mortg., 465 F.3d 24	172H+1342	Courts must evaluate the adequacy of Truth in Lending Act (TILA) disclosures from the vantage point of a hypothetical average consumer, a consumer who is neither particularly sophisticated nor particularly dense. Truth in Lending Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.	What is an average consumer?	013706.docx	LEGALEASE-00155730- LEGALEASE-00155731
Kaptein By & Through Kaptein v. Conrad Sch. Dist., 281 Mont. 152	141E+954	Student's right to participate in extracurricular activities, although not fundamental right, is clearly subject to constitutional protection.	Is a students right to participate in extracurricular school activities a fundamental right?	016822.docx	LEGALEASE-00156148- LEGALEASE-00156149
Meyers v. City of Jacksonville, 754 So. 2d 198	307A+690	Dismissal of a complaint with prejudice is a severe sanction which should be granted only when the pleader has failed to state a cause of action, and it conclusively appears that there is no possible way to amend the complaint to state a cause of action.	"Is a dismissal for lack of standing without prejudice and thus has no effect on the underlying duties, rights, or obligations of the parties?"	025132.docx	LEGALEASE-00156981- LEGALEASE-00156982
United States v. Sutcliffe, 505 F.3d 944	377E+12(5)	A conviction for transmission in interstate commerce of any communication containing threat to injure requires the specific intent to threaten, and only true threats may be prohibited. 18 U.S.C.A. S 875(c).	What does a conviction require for transmission in interstate commerce of a threatening communication?	046701.docx	LEGALEASE-00157014- LEGALEASE-00157015
Witherell v. Kelly, 195 A.D. 227	156+52.15	An equitable estoppel need not rest upon a consideration, agreement, or legal obligation.	"Must an equitable estoppel rest upon a consideration, agreement, or legal obligation?"	017862.docx	LEGALEASE-00159270- LEGALEASE-00159271
Rohatynsky v. Kalogiannis, 763 So. 2d 1270	307A+695	A claim should not be dismissed with prejudice for failure to state a claim without giving the plaintiff an opportunity to amend the defective pleading, unless it is apparent that the pleading cannot be amended to state a cause of action.	"Can leave to amend be denied where there is prejudice to the opposing party, or an amendment would be futile?"	040254.docx	LEGALEASE-00160825- LEGALEASE-00160826
Bloebaum v. Gen. Am. Life Ins. Co., 734 S.W.2d 539	217+1012	Medical and hospital expense insurance is not insurance in usual sense, providing benefits upon occurrence of an event; it is by definition contract of indemnity, intended to indemnify and hold insured harmless from obligations he is by law compelled to pay.	"Are medical and hospital expense insurance, insurance in the usual sense?"	019526.docx	LEGALEASE-00161571- LEGALEASE-00161572

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United States v. One Parcel of Real Prop. with Bldgs., Appurtenances, & Improvements, 908 F. Supp. 1070	135H+25	Double jeopardy clause is not limited to "life or limb" sanctions; clause also applies to imprisonment and monetary penalties. U.S.C.A. Const.Amend. 5.	"Is a double jeopardy clause is not limited to ""life or limb"" sanctions?"	Double Jeopardy - Memo 119 - C - BP_65898.docx	ROSS-003284411-ROSS-003284412
Bologna Bros. v. Morrissey, 154 So. 2d 455	8.30E+10	Legal effect of notes is governed by law of country where they were executed and delivered; this rule applies to accommodation paper.	Is the legal effect of promissory notes governed by the law of the country where they were executed and delivered?	Bills and Notes - Memo 1349 - RK_66252.docx	ROSS-003279885-ROSS-003279886
State v. Green, 896 N.W.2d 770	203+530	When an individual acts on state of mind which prompts one to do wrongful act intentionally without legal justification or excuse, the individual is said to have acted with malice aforethought.	What is malice aforethought?	019393.docx	LEGALEASE-00164054-LEGALEASE-00164055
Moore v. Com., 254 Va. 184	352H+259	Penetration by penis of a vagina is essential element of crime of rape; proof of penetration, however slight the entry may be, is sufficient.	Is slight penetration sufficient to constitute rape?	043157.docx	LEGALEASE-00164906-LEGALEASE-00164907
Denver Feed Co. v. City of Commerce City, 702 P.2d 285	371+2016	Taxing authority may assess and collect taxes only within the express authority conferred by law.	Should the taxing authority assess and collect taxes only within the express authority conferred by law?	046584.docx	LEGALEASE-00166613-LEGALEASE-00166614
Haygood v. Head, 305 Ga. App. 375	21+12	In the absence of a valid jurat, a writing in the form of an affidavit has no force and no validity and amounts to nothing, when standing alone or when construed in connection with other evidence; to make a valid affidavit, the affiant must swear to it, and the fact of his swearing must be certified by a proper officer.	Is verification of an affidavit without effect in the absence of a jurat?	Affidavits - Memo 87 - _1nVtvxE0kpW99kyVBsk5Uq8P-QZB8-R2a.docx	ROSS-000000268-ROSS-000000269
People v. Stout, 193 Colo. 466	3.77E+13	Actual subjective fear on part of victim is not a necessary element of crime of menacing. C.R.S. '73, 18-3-206.	Is actual subjective fear on the part of the victim a necessary element of the crime of menacing?	Threats - Memo #167- C - LB_62768.docx	ROSS-003279453-ROSS-003279454
Archangel Diamond Corp. v. Lukoil, 123 P.3d 1187	307A+681	"Documentary evidence," which can be considered on a motion to dismiss for lack of personal jurisdiction, consists of the allegations in the complaint, as well as affidavits and any other evidence submitted by the parties.	"Does ""documentary evidence"" consist of the allegations in the complaint along with any affidavits and any other evidence submitted by the parties?"	Pretrial Procedure - Memo # 9798 - C - TM_61418.docx	ROSS-003280465-ROSS-003280466
AXA Art Americas Corp. v. Pub. Storage, 208 F. Supp. 3d 820	13+27(1)	When the only loss or damage that a plaintiff has suffered is to the subject matter of the contract, under Texas law, the plaintiff's action is ordinarily on the contract.	"When the only loss or damage is to the subject matter of the contract, is the plaintiff's action ordinarily on the contract?"	Action - Memo 957 - C - SHB_68582.docx	ROSS-003280677-ROSS-003280678
Myers v. Cohen, 67 Haw. 389	307A+693.1	Dismissal of a claim for want of prosecution does not dispose of a counterclaim, and a counterclaim may be adjudicated on the merits even where a complaint is dismissed.	Does dismissal of a claim for want of prosecution dispose of a counterclaim?	Pretrial Procedure - Memo # 10643 - C - NE_62459.docx	ROSS-003280692-ROSS-003280693
In re Trask, 462 B.R. 268	366+1	Under Maine law, equitable subrogation is a concept derived from principles of restitution and unjust enrichment.	Is equitable subrogation a concept derived from principles of restitution and unjust enrichment?	Subrogation - Memo 261 - VP C.docx	ROSS-003281724-ROSS-003281725
Bougadis v. Langefeld, 69 Ill. App. 3d 1010	228+185.1(1)	Where affidavits filed in support of defendants' motion for summary judgment contained assertions which were within personal knowledge of respective affiants, and statements which were not conclusions but were facts of type which would be admissible in evidence, there were no significant deficiencies in affidavits, even though statements were in narrative form. Supreme Court Rules, rules 191, 191(a), S.H.A. ch. 110A, SS 191, 191(a).	Can an affidavit be taken in as evidence?	Affidavits - Memo 7- ANG.docx	ROSS-003282243-ROSS-003282244

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Burns v. Neiman Marcus Grp., 173 Cal. App. 4th 479	8.30E+27	A "check" is simply an order to the drawee bank to pay the sum stated, signed by the maker and payable on demand. West's Ann.Cal.Com.Code S 3103.	Is check merely an order to pay the sum which has been stated?	Bills and Notes - Memo 760 - KC_58511.docx	ROSS-003282863-ROSS-003282864
State v. C.J.F., 183 S.W.3d 841	135H+100.1	The time when jeopardy attaches in a jury trial serves as the lynchpin for all double jeopardy jurisprudence; after jeopardy attaches, any charge that is dismissed, waived, abandoned or on which the jury returns an acquittal may not be retried. U.S.C.A. Const.Amend. 5.	Does the time when jeopardy attaches in a jury trial serve as the lynchpin for all double jeopardy jurisprudence?	Double Jeopardy - Memo 785 - C - SN_67790.docx	ROSS-003282916-ROSS-003282917
Geiselman v. Andreson, 242 S.W. 798	289+768	Allegations of partnership can be controverted only by a special plea, denying under oath the fact of the partnership, and, unless so denied, such allegations are taken as confessed.	Can allegations of a partnership be taken as confessed if not denied under oath?	Partnership - Memo 509 - SB_64868.docx	ROSS-003283091-ROSS-003283092
Pramer S.C.A. v. Abaplus Int'l Corp., 76 A.D.3d 89	13+5	Private right of action is not implied under the commercial bribery provisions of the Penal Law.	Is a private right of action implied under the commercial bribery provisions of a penal law/statute?	Bribery - Memo # 7 - TH.docx	ROSS-003283199-ROSS-003283200
Matthews v. Malkus, 377 F. Supp. 2d 350	386+1	Under New York law, requisite elements for claim of trespass are: (1) intentional entry by defendants onto plaintiff's land, and (2) wrongful use without justification or consent.	What are the elements of a trespass claim?	Trespass - Memo 27 - RK.docx	ROSS-003284310-ROSS-003284311
Chicago W. Div. Ry. Co. v. Rend, 6 Ill. App. 243	386+4	Where an injury is inflicted to a plaintiff's right by a willful act of force, it constitutes a trespass.	Does an injury inflicted to a plaintiff's right by a willful act constitute a trespass?	Trespass - Memo 100 - RK.docx	ROSS-003284834-ROSS-003284835
Frigard v. United States, 862 F.2d 201	170A+1837.1	Ordinarily, case dismissed for lack of subject matter jurisdiction should be dismissed without prejudice.	Should a case dismissed for lack of subject matter jurisdiction be dismissed without prejudice so that a plaintiff can reassert his claims in a competent court?	Pretrial Procedure - Memo # 10238 - C - NE_61743.docx	ROSS-003284957-ROSS-003284958
Replay v. Sec'y of Treasury of Puerto Rico, 778 F. Supp. 2d 207	92+3936	Fifth Amendment applies to actions of the federal government, not those of private individuals, or of state, local or municipal governments. U.S.C.A. Const.Amend. 5.	Does the Fifth Amendment only apply to actions of the federal government?	Eminent Domain - Memo 152 - RK.docx	ROSS-003285489-ROSS-003285490
State v. Standard, 232 Or. 333	203+839	To state crime of involuntary manslaughter in doing of lawful act, indictment must set forth in detail acts or omissions which were performed without due caution or circumspection, pleaded as in civil actions for negligence. ORS 163.040.	Can a crime be committed by an otherwise lawful act performed without due caution?	Homicide - Memo 33 - RK.docx	ROSS-003285591-ROSS-003285592
Oliver v. Coffman, 112 Ind. App. 507	302+8(1)	An "ultimate fact" within meaning of rule requiring that such facts be pleaded is the final or resultant fact that has been reached by the processes of logical reasoning from the detailed or probative facts.	Are ultimate facts the final facts reached by the process of logical reasoning?	Pleading - Memo 114 - RMM.docx	ROSS-003286097-ROSS-003286099
Padilla ex rel. Newman v. Bush, 233 F. Supp. 2d 564	34+1	President may exercise his powers as Commander in Chief without a declaration of war.	Can the president exercise his powers as commander in chief without a declaration of war?	Armed Forces - Memo 5 - RK.docx	ROSS-003286627-ROSS-003286628
Adamovic v. METME Corp., 961 F.2d 652	25T+113	Federal policy favoring arbitration does not give courts license to compel arbitration absent agreement to do so.	Does Federal policy favoring arbitration give courts license to compel arbitration	Alternative Dispute Resolution - Memo 88 - JS.docx	ROSS-003289187-ROSS-003289188
Burt v. Beautiful Savior Lutheran Church of Broomfield, 809 P.2d 1064	386+10	"Trespass" is physical intrusion upon property of another without permission of person lawfully entitled to possession of real estate, and liability requires only intent to do act that itself constitutes or inevitably causes intrusion, without reference to nature or immediacy of harm or whether intrusion was caused by negligent act.	Does liability for trespass requires only an intent to do the act that itself constitutes the intrusion?	Trespass -Memo -54-VP.docx	ROSS-003289350-ROSS-003289351

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United States v. Ballestas, 795 F.3d 138	110+97(3)	Maritime Drug Law Enforcement Act (MDLEA) conspiracy provision applied extraterritorially to reach defendant's conduct in Colombia; extraterritorial reach of MDLEA's substantive prohibitions was clear and such application was consistent with Congress's purpose in enacting it, even though its conspiracy prohibition was codified in separate statutory section. 46 U.S.C.A. S 70506(b).	Does the Maritime Drug Law Enforcement Act apply to acts committed outside the territorial jurisdiction of the United States?	Admiralty Law - Memo 30 - JS.docx	ROSS-003289788-ROSS-003289790
Neal v. State Farm Fire & Cas. Co., 300 Ga. App. 68	352H+51(1)	Defendant who was charged with attempted statutory rape was not entitled to cross-examine victim as to whether she told him she was 16; knowledge of the age of the victim was not an element of the offense of statutory rape, and reasonable belief that the victim was of the age of consent was not a defense to statutory rape.	Is knowledge of victim's age an element in statutory rape?	Sex Offence - Memo 44 - SB.docx	ROSS-003290922-ROSS-003290923
Farmer v. State, 341 Ark. 220	352H+190	Sexual gratification, like intent, is rarely capable of proof by direct evidence and must usually be inferred from the circumstances. A.C.A. SS 5-14-101(1)(B), 5-14-103.	Can sexual gratification be inferred from the circumstances?	Sex Offence - Memo 58 - SB.docx	ROSS-003291806-ROSS-003291807
Owens v. Trammell, 792 F.3d 1234	135H+1	The Double Jeopardy Clause prevents the government from placing a defendant in jeopardy twice for the same offense. U.S.C.A. Const.Amend. 5.	Does double jeopardy prevent the government from placing a defendant in jeopardy twice for the same offense?	Double Jeopardy - Memo 650 - C - PC_68427.docx	ROSS-003292403-ROSS-003292404
Eeastern. Acceptance Corp. v. Kavlick, 10 N.J. Super. 253	83E+430	Endorsement "without recourse" is not restrictive endorsement but is qualified endorsement which does not impair negotiable character of instrument, and since its purpose is simply to exempt endorser from liability for payment of instrument in event it is dishonored at maturity, its presence does not indicate that endorser's title may be defective. R.S. 7:2-36, 38; R.S. 7:2-36, 38, N.J.S.A.	Is an endorsement without recourse a restrictive endorsement or a qualified endorsement?	Bills and Notes - Memo 21 - KC_63606.docx	ROSS-003295906-ROSS-003295907
First Nat. Bank & Tr. Co. of Augusta v. Georgia R.R. Bank & Tr. Co., 238 Ga. 693	8.30E+76	Once check had been acted upon by drawee bank, its drawer no longer had authority to stop payment. Code, SS 109A-4-303, 109A-4-403.	Does a drawer have authority to stop payment on a check that has been acted upon by a bank?	Bills and Notes - Memo 1457 - RK_66513.docx	ROSS-003296705
QVC v. Resultly, 159 F. Supp. 3d 576	386+6	Under Pennsylvania law, a trespass to a chattel may be committed by intentionally: (1) dispossessing another of the chattel, or (2) using or intermeddling with a chattel in the possession of another. Restatement (Second) of Torts S 217.	What are the elements to the tort of trespass to chattel?	Trespass - Memo 120 - RK.docx	ROSS-003297648-ROSS-003297649
Stern v. Cosby, 645 F. Supp. 2d 258	237+51(5)	In deciding whether a story was published with actual malice, a book publisher has no independent duty to investigate an author's story unless the publisher has actual, subjective doubts as to the accuracy of the story.	Does a publisher have a duty to investigate the accuracy of reports or stories?	Libel and Slander - Memo 154 - RK.docx	ROSS-003298186-ROSS-003298188
Hyosung Am. v. Sumagh Textile Co., 934 F. Supp. 570	308+8	Under New York law, elements of agency relationship are manifestation by principal that agent shall act for him, acceptance of undertaking by agent, and understanding between parties that principal is to be in control of undertaking; of these, critical element is control of agent by principal.	What are the elements required to form an agency relationship?	Principal and Agent - Memo 7 - RK.docx	ROSS-003298826-ROSS-003298827
In re Trans World Airlines, 261 B.R. 103	13+61	Generally, one has right to institute suit, so that cause of action will have accrued, when a wrong has been done, a duty has been breached, or an injury has been inflicted.	What is the right to institute suit?	Action - Memo # 148 - C - CS.docx	ROSS-003299216-ROSS-003299217

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Kenney v. Rockingham Sch. Dist., 123 Vt. 344	413+1	Vermont does not stand outside all development in workmen's compensation law and, when, justifiable, its concepts are not to be denied development and expansion.	"When justifiable, should the concepts of a state's workmen's compensation statute be denied development and expansion?"	Workers Compensation - Memo #190 ANC.docx	ROSS-003302065-ROSS-003302066
Roby v. Day, 635 P.2d 611	289+558	Each partner is possessed of a joint interest in the whole but does not own any separate part of the partnership property; partner's rights in a partnership is an intangible property right, a chose in action, and a right to receive money shown to be due on liquidation and accounting.	Is a partner's right in partnership property an intangible one?	Partnership - Memo 271 - RK.docx	ROSS-003302865-ROSS-003302866
In re Crown Castle Int'l Corp., 247 S.W.3d 349	307A+36.1	Under Delaware law, derivative plaintiffs are not entitled to discovery in order to demonstrate presuit demand futility.	Are derivative plaintiffs not entitled to discovery in order to demonstrate presuit demand futility?	Pretrial Procedure - Memo # 4602 - C - KG.docx	ROSS-003303588-ROSS-003303589
Landry v. Istre, 510 So. 2d 1310	322H+1276	Civil Code articles relative to redhibitory sales are applicable to contracts of exchange. LSA-C.C. art. 2667.	"Do all the Civil Code provisions relative to the contract of sale, that includes redhibitory sales, apply to the contract of exchange?"	Exchange of Property - Memo 27 - DB_64041.docx	ROSS-003308045-ROSS-003308046
In re Frankum, 399 B.R. 498	366+1	Right to assert subrogation rights is not automatic, and court must look to the particular facts and circumstances of a case to determine if subrogation is appropriate.	Is the right to assert subrogation rights automatic?	Subrogation - Memo 327 - RM C.docx	ROSS-003311492-ROSS-003311493
Colonial Sur. Co. v. United States, 108 Fed. Cl. 622	366+1	"Equitable subrogation" is a creature of equity, is enforced solely for the purpose of accomplishing the ends of substantial justice, and is independent of any contractual relations between the parties.	What is equitable subrogation?	Subrogation - Memo 115 - VP C.docx	ROSS-003312609-ROSS-003312610
United States v. Alfisi, 308 F.3d 144	63+1(2)	Bribery involves the giving of value to procure a specific official action from a public official. 18 U.S.C.A. S 201(b)(1)(A).	Does bribery involve the giving of value to procure a specific official action from a public official?	Bribery - Memo # 36 - C - SD.docx	ROSS-003313364-ROSS-003313366
St. Bernard Trappers' Ass'n v. Michel, 162 La. 366	307A+501	Plaintiff may discontinue suit at any time, unless there is reconventional demand or prejudice to defendant's rights. Code Prac. art. 491.	"Can a plaintiff discontinue a suit at any time, unless there is a reconventional demand or prejudice to a defendant's rights?"	Pretrial Procedure - Memo # 1657 - C - KG.docx	ROSS-003314091-ROSS-003314092
Fireman's Fund Ins. Co. v. Wagner Fur, 760 F. Supp. 1101	50+16	Any unauthorized delivery of bailed property by bailee, even delivery to wrong person resulting from bailee's good-faith mistake, constitutes "conversion."	Does the unauthorized delivery of property by the bailee to the wrong person constitute conversion?	Bailment - Memo 49 - RK.docx	ROSS-003315987-ROSS-003315989
In re Karp, 373 B.R. 837	366+1	Under Illinois law, there are two types of subrogation: "conventional subrogation," which is based on express or implied agreement, and "legal subrogation," which arises by operation of law.	What are the two types of subrogation based upon?	Subrogation - Memo # 543 - C - SU.docx	ROSS-003324448-ROSS-003324450
Washington Mut. Bank v. Chiappetta, 584 F. Supp. 2d 961	366+1	Equitable subrogation exists under Ohio law to alleviate inequities due to fraud and mistake.	Does equitable subrogation exist to alleviate inequities due to fraud and mistake?	Subrogation - Memo 547 - C - SA.docx	ROSS-003324968-ROSS-003324969
East Lake Creek Ranch, LLP v. Brotman, 998 P.2d 46	315+609	One test for determining whether a transaction constitutes a "sale" or instead an "exchange" is whether there is a fixed value at which the exchange is to be made; if there is a fixed value, it is a sale.	What test determines whether a transaction constitutes a sale or an exchange of property?	Exchange of Property - Memo 1 - RK.docx	ROSS-003326557-ROSS-003326558
Howard v. Ferrellgas Partners, 748 F.3d 975	25T+112	While the Federal Arbitration Act (FAA) favors arbitration, before the FAA's heavy hand in favor of arbitration swings into play, the parties themselves must agree to have their disputes arbitrated. 9 U.S.C.A. S 1 et seq.	Does Federal Arbitration Act (FAA) favor arbitration?	Alternative Dispute Resolution - Memo 84 - AKA.docx	ROSS-003326588-ROSS-003326589

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Hooks v. Fourth Court of Appeals, 808 S.W.2d 56	307A+501	In ordinary case, absent special statutory provisions, plaintiff has absolute right to take nonsuit.	"In ordinary case, does the plaintiff have an absolute right to take a non suit?"	Pretrial Procedure - Memo # 962 - C - TJ.docx	ROSS-003330729-ROSS-003330730
Phillips Home Builders v. Travelers Ins. Co., 700 A.2d 127	217+1832(1)	If relevant insurance contract language is clear and unambiguous, it must be given its plain meaning; however, if there is ambiguity, contract language must be construed most strongly against insurer that drafted it.	When is an insurance policy ambiguous?	000181.docx	LEGALEASE-00115664-LEGALEASE-00115665
State ex rel. Murphy v. Aronson, 330 S.W.2d 140	277+9	"Reasonable notice" is one that provides an opportunity for a litigant to present his views as to matters instantly before the court which may affect his rights.	What is a reasonable notice under the law?	000274.docx	LEGALEASE-00115565-LEGALEASE-00115566
Hoose v. Doody, 886 N.E.2d 83	20+86	Western landowners could not have reasonably believed in good faith that they both owned northern lot by adverse possession and also that they did not have to pay taxes on the northern lot, and thus their failure to pay taxes on the northern lot did not satisfy the adverse possession tax statute, which required an adverse possession claimant to pay all taxes that the "claimant reasonably believes in good faith to be due on the land." West's A.I.C. 32-21-7-1.	What requirements need to be fulfilled in order to claim a title under adverse possession?	Adverse Possession - Memo 8 - RM.docx	LEGALEASE-00000435-LEGALEASE-00000437
SCAC Transp. (USA) Inc. v. S.S. Danaos, 578 F. Supp. 327	25T+111	By consenting to arbitration a party relinquishes certain rights and safeguards provided by judicial system; if a party does not consent to arbitration, however, it retains these rights and should not be bound by an arbitration award.	What is the consequence of consenting to arbitration?	000075.docx	LEGALEASE-00115403-LEGALEASE-00115404
N. Am. Van Lines v. Lexington Ins. Co., 678 So. 2d 1325	217+3419	While concept of bad faith arose in connection with liability policies, good faith obligation is implied in all insurance contracts.	Are insurance contracts considered as contract of good faith?	Insurance - Memo 13 VP.docx	LEGALEASE-00000545-LEGALEASE-00000547
Hughes v. Cornerstone Inspection Grp., 336 Ga. App. 283	21+1	Affidavits are admissible forms of evidence that may be filed in opposition to motions. West's Ga.Code Ann. SS 9-11-6(d), 9-11-56(c); Uniform Superior Court Rule 6.2.	Can affidavits be considered as an admissible form of evidence?	07317.docx	LEGALEASE-00077623-LEGALEASE-00077625
In re MacDonald, 326 B.R. 6	51+2556	Prohibition against assignment of personal injury claims under Massachusetts common law did not affect or limit Chapter 7 trustee's rights to debtor's prepetition personal injury claim, which arose by operation of law, pursuant to bankruptcy statute defining "property of the estate," rather than by assignment. Bankr.Code, 11 U.S.C.A. S 541(a).	Does the law prohibit assignment of personal injury claims?	Assignments - Memo 11 - JS.docx	ROSS-003284492-ROSS-003284493
Reedy v. Bussell, 148 Cal. App. 4th 1272	30+4173	In order to obtain a reversal based upon such a procedural flaw in the notice for a motion, the appellant must demonstrate not only that the notice was defective, but that he or she was prejudiced.	What should a party demonstrate to claim insufficient or defective notice?	003849.docx	LEGALEASE-00115789-LEGALEASE-00115790

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Estate of Starkel, 134 Wash. App. 364	409+302(1)	Statute providing that whenever any matter in official proceeding is required to be proved by affidavit, matter may with like force and effect be proved by unsworn written statement that meets certain criteria applied in will contest to give "like force and effect" to will witnesses' self-proving affidavit, which complied with that statute's express requirements, in lieu of notarized affidavit otherwise required under statute prescribing formal requirements for valid will; witnesses' attestation became relevant when will's validity was challenged, thereby subjecting will to probate, which clearly was official judicial proceeding. West's RCWA 9A.72.085, 11.12.020(2).	Are unsworn statements signed under the penalty of perjury permitted in lieu of affidavits?	07320.docx	LEGALEASE-00077599- LEGALEASE-00077600
Rodriquez v. Texas Farmers Ins. Co., 903 S.W.2d 499	30+204(4)	When appellate complaint relates to substance of affidavit, it is not necessary that objection be pointed out to trial court, because there is no requirement of opportunity to amend such a complaint.	Will defects of substance in affidavits be allowed to be amended?	Affidavits - Memo 14 - MS.docx	ROSS-003301197-ROSS-003301198
City of Atchison v. Bartholow, 4 Kan. 124	21+1	Code, S 343, defines an "affidavit" to be a declaration under oath made without notice to the adverse party, but the next section declares a deposition to be a declaration under oath made on notice to the adverse party.	What distinguishes affidavit from deposition?	06066.docx	LEGALEASE-00077680- LEGALEASE-00077681
State v. Quartier, 114 Or. 657	307A+61	Under Or.L. SS 826, 827, ORS 45.020, 45.030, distinction between "affidavit" and "deposition" is that latter is taken with notice to adverse party for purpose of enabling him to attend and cross-examine.	What distinguishes affidavit from deposition?	06602.docx	LEGALEASE-00077753- LEGALEASE-00077754
State v. Sachs, 264 S.C. 541	349+101	Search warrant does not offend the constitution so long as it is issued upon affidavit or affirmation.	Will a search warrant issued upon affidavit or affirmation offend the Constitution?	Affidavits - Memo 3- ANG.docx	ROSS-003288512-ROSS-003288513
F.H. Paschen/S.N. Nielsen v. Burnham Station, 372 Ill. App. 3d 89	21+17	Courts must accept an affidavit as true if it is uncontradicted by counteraffidavits or other evidentiary materials.	Can courts accept an affidavit as true if it is uncontradicted by counter-affidavits or other evidentiary materials?	003870.docx	LEGALEASE-00115930- LEGALEASE-00115931
In re Hyde's Estate, 218 N.Y. 55	21+18	Ex parte affidavits although truth may often be found therein, are weak evidence, to be received with caution in every case.	Are affidavits regarded as weak evidence?	003874.docx	LEGALEASE-00115943- LEGALEASE-00115945
Gantz v. Dir. of Revenue, 858 S.W.2d 793	267+29	Trial court is generally free to believe or disbelieve statements made in affidavits offered as evidence on motions.	Can the trial court disbelieve an affidavit?	Affidavits- Memo 23 - ANG.docx	LEGALEASE-00000891- LEGALEASE-00000892
Emery v. Orleans Levee Bd., 11 So. 2d 652	21+1	An "affidavit" is nothing more than a sworn statement made by one who is not subjected to cross-examination, whereas "testimony" in the record comes from witnesses who appear in open court and are subject to cross-examination.	Can an affidavit be subjected to cross examination?	06285.docx	LEGALEASE-00077837- LEGALEASE-00077838
Jackson Park Yacht Club v. Illinois Dep't of Local Gov't Affairs, 93 Ill. App. 3d 542	238+53	License is not assignable, and merely gives another right to use premises for specific purpose with owner retaining possession and control.	Are licenses assignable?	Assignments - Memo 23 - AKA.docx	ROSS-003296262-ROSS-003296263

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
LaBarge Pipe & Steel Co. v. First Bank, 550 F.3d 442	195+4	Under Louisiana law, a "standby letter of credit" is similar to a "guaranty" in that it acts as a protection against default by a customer in a purchase agreement; however, a guaranty differs from a standby letter of credit in that under a standby letter of credit, the beneficiary has bargained for the right to be paid upon presentation of specific documents, even if the beneficiary defaults on the underlying contract with the applicant.	Is a standby letter of credit similar to a guaranty?	003951.docx	LEGALEASE-00115884- LEGALEASE-00115885
State v. Negron, 5 Conn. Cir. Ct. 159	277+12	Where there is any ambiguity in terms of notice, rendering its meaning doubtful, doubt must be resolved against person giving notice.	Will an ambiguity in the terms of a notice be resolved against the person giving the notice?	003964.docx	LEGALEASE-00115970- LEGALEASE-00115971
Gantz v. Dir. of Revenue, 858 S.W.2d 793	267+29	Trial court is generally free to believe or disbelieve statements made in affidavits offered as evidence on motions.	Can the trial court disbelieve an affidavit?	003881.docx	LEGALEASE-00115966- LEGALEASE-00115967
Howard v. Henderson, 142 Ga. 1	315+133	Under Civ.Code 1910, S 3671, a life tenant's conveyance of a greater estate than she possesses will not work a forfeiture as at common law.	What happens when a life tenant conveys a greater estate than they possess?	Life Estate - Memo 12- JS.docx	ROSS-003282857-ROSS- 003282859
Burlington N. & Santa Fe Ry. Co. v. U.S. Dist. Court for Dist. of Mont., 408 F.3d 1142	311H+21	Boilerplate objections or blanket refusals inserted into a response to a request for production of documents are insufficient to assert a privilege; however, a privilege is not waived per se if a privilege log is not produced within the 30-day time limit for responding to such requests. Fed.Rules Civ.Proc.Rule 34, 28 U.S.C.A.	Will a privilege be waived if a privilege log is not produced within thirtyday time limit?	005308.docx	LEGALEASE-00116041- LEGALEASE-00116043
Reardon v. Riggs Nat. Bank, 677 A.2d 1032	315+131	Ownership rights consist not only of present right to possession and use of property, but also of right to future use; accordingly, one person may own life estate, with future interest in remainderman upon life tenant's death.	Do ownership rights in property consist future use?	003038.docx	LEGALEASE-00116098- LEGALEASE-00116099
Certain Underwriters at Lloyd's London v. Westchester Fire Ins. Co., 489 F.3d 580	25T+230	Arbitration is a creature of contract, and an arbitration panel has the authority to decide only the issues that have been submitted for arbitration by the parties.	Does an arbitration panel has authority to decide issues that are not submitted for arbitration by the parties?	003760.docx	LEGALEASE-00116162- LEGALEASE-00116163
Momand v. Twentieth-Century Fox Film Corp., 37 F. Supp. 649	38+24(1)	Under Oklahoma law relating to assignments of causes of action, a tort pure and simple is any tort which does not arise out of a contract express or implied. 12 Okl.St.Ann. SS 221, 1051; 60 Okl.St.Ann. SS 312, 313.	Are assignments of a cause of action in a tort valid?	Assignments - Memo 33 - JS.docx	ROSS-003297957-ROSS- 003297958
In re Johnson, 554 B.R. 448	38+12	Under California law, creditor did not have a valid assignment of, or security interest in, Chapter 11 debtor's salary under player contract, where the wage assignment did not contain a statement that debtor, who was a professional hockey player, had not made any prior assignment of other property in addition to wages as consideration in the same transaction, an earnings withholding order against debtor's wages or salary was in force, and, barring injury, debtor had to play hockey in order to receive the full salary provided for in the player contract and had other obligations under the contract that he had to perform or risk reduction in pay or, ultimately, termination. Cal. Lab. Code S 300.	Is the consent of a spouse required for an assignment of wages?	Assignments - Memo 34- JS.docx	LEGALEASE-00001458- LEGALEASE-00001460

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First Nat. Bank of Juneau v. Martin, 16 Alaska 313	38+7	A vested interest in decedent's estate is assignable, including a future or contingent estate, if person to take it is certain and if coupled with an interest.	Is a vested future interest assignable?	Assignments - Memo 41 - JS.docx	LEGALEASE-00001464-LEGALEASE-00001466
Gov't of V.I. v. 0.459 Acres of Land Consisting of Following: ~£Parcel No. 6A Estate Thomas Kings Quarter & Parcel No. 9A, Estate Thomas, Virgin Islands, 286 F. Supp. 2d 501	25T+112	Arbitration is completely voluntary remedy, and litigants may freely contract to refer their dispute to arbitration, as alternative to litigation.	Can litigants freely refer their disputes to arbitration?	004167.docx	LEGALEASE-00116250-LEGALEASE-00116252
Hoffman v. Cargill Inc., 236 F.3d 458	25T+111	Arbitration is not designed to be a perfect system of justice, but is designed primarily to avoid the complex, time-consuming and costly alternative of litigation.	Is arbitration a perfect system of justice?	004170.docx	LEGALEASE-00116253-LEGALEASE-00116254
Estate of Guido v. Exempla, 2012 COA 48, 9, 292 P.3d 996	25T+357	An arbitration award confirmation proceeding is a special statutory proceeding, not a "civil action" in the ordinary meaning of that term. West's C.R.S.A. SS 13-22-205, 13-22-222(1); Rules Civ.Proc., Rule 3(a).	Is an arbitration proceeding a civil action?	06331.docx	LEGALEASE-00078395-LEGALEASE-00078396
Kingsbrook Jewish Med. Ctr. v. Richardson, 486 F.2d 663	360+191.6(1)	The Administrative Procedure Act constitutes a waiver of sovereign immunity concerning those claims which come within its scope. 5 U.S.C.A. SS 701-706.	Does the Administrative Procedure Act constitute a waiver of sovereign immunity?	004483.docx	LEGALEASE-00116401-LEGALEASE-00116402
Farmer v. Mach. Craft, 406 So. 2d 981	50+1	In order to constitute "bailment" there must be change of possession, actual or constructive, and bailee must have voluntarily assumed custody and possession of property for another.	What constitutes bailment?	Bailment - Memo 8 - ANG.docx	ROSS-003284230-ROSS-003284232
Moody v. People, 65 Colo. 339	146+1	Embezzlement is common-law larceny extended by statute to cover cases where the stolen property comes originally into the possession of the defendant without a trespass.	What is embezzlement?	Embezzlement- Memo 13 - VP.docx	ROSS-003311490-ROSS-003311491
Rockstead v. City of Crystal Lake, 486 F.3d 963	148+1	The Constitution does not forbid government to take private property for public use; it merely requires that, if it does so, it pay the owner just compensation. U.S.C.A. Const.Amend. 5.	Does the federal constitution forbid takings?	Eminent Domain - Memo 4 - AKA.doc	LEGALEASE-00002117-LEGALEASE-00002118
Scott v. Doggett, 226 S.W.2d 183	192+7	"Good will", although intangible, is an integral part of the business the same as the physical assets, and the rule for measuring damages to good will is the same as that for measuring damages to any other property.	Can goodwill which is intangible be considered an integral part of the business?	Goodwill - Memo 18 - ANG..docx	ROSS-003284357-ROSS-003284359
May v. May, 214 W. Va. 394	134+797	There are a variety of acceptable methods of valuing the goodwill of a professional practice for purposes of equitable distribution, and no single method is to be preferred as a matter of law.	Is there a single acceptable method of valuing goodwill?	05836.docx	LEGALEASE-00089223-LEGALEASE-00089225
Crooks v. Moses, 138 S.W.3d 629	272+200	For the negligent activity theory of liability to be applicable, the evidence must show that the injuries were directly related to the activity itself.	When does the negligent activity theory of liability be applicable in an action?	004448.docx	LEGALEASE-00116705-LEGALEASE-00116706
United States v. Nat'l City Lines, 80 F. Supp. 734	361+1567	Matters of venue and change of venue are as a rule mere incidences of procedure, and statutes relating to remedies and procedure operate retrospectively.	Can matters of venue operate retrospectively?	Venue - Memo 11 - RM.docx	ROSS-003311232-ROSS-003311234

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Bohannon v. State, 1954 OK CR 48	50+1	A "bailment" involves either an express or implied mutual agreement to safe keep property between the owner and its custodian either gratuitously or for some consideration.	What does bailment involve?	Bailment - Memo 5 - JS.docx	ROSS-003297712-ROSS-003297713
Celotex Corp. v. Illinois Pollution Control Bd., 65 Ill. App. 3d 776	1.49E+15	Purpose of variance procedure under Environmental Protection Act is to give temporary relief to a polluter while encouraging future compliance. S.H.A. ch. 1111/212, S 1035.	What is the purpose of the variance procedure under the EPA?	004553.docx	LEGALEASE-00116520-LEGALEASE-00116522
Discovery S. Grp., Ltd. v. Pollution Control Bd., 275 Ill. App. 3d 547	149E+323	Proof that noise unreasonably interfered with enjoyment of life and lawful activity, for purposes of section of Environmental Protection Act (EPA) prohibiting noise pollution, does not require proof with respect to each of criteria listed in Act for consideration by Pollution Control Board. S.H.A. 415 ILCS 5/33(c); Ill. Admin. Code title 35, SS 900.101, 900.102.	Does unreasonable interference require proof with respect to the criteria listed in Section 33(c) of the EPA?	Environmental Law - Memo 28 - JS.docx	ROSS-003284775-ROSS-003284776
Seizer v. Sessions, 132 Wash. 2d 642	253+756	Mere physical separation does not dissolve a marital community; however, it is not necessary for purposes of statute governing earnings and accumulations of husband and wife "living separate and apart" that dissolution action be final or even pending. West's RCWA 26.16.140.	Does the community property dissolve after separation?	004803.docx	LEGALEASE-00116741-LEGALEASE-00116742
Craig ex rel. Estate of Craig v. Zink, 2016 IL App (4th) 150939	162+227(1)	A claim against an estate is not a pleading within the meaning of the Civil Code, and it need not set forth a formal cause of action.	Is a claim against an estate a pleading?	Pleading - Memo 10 - VP.docx	ROSS-003286044-ROSS-003286045
John T. Handy Co. v. Carman, 102 Md. App. 188	50+1	Modern usage divides bailments into three types: (1) for sole benefit of bailor and this encompasses depositum and mandatum bailments; (2) for sole benefit of bailee and this encompasses commodatum bailments; and (3) for mutual benefit of both and this encompasses locatum and pignori acceptum or vadium bailments.	Does a bailment provide mutual benefit to both the bailor and the bailee?	004623.docx	LEGALEASE-00116898-LEGALEASE-00116899
Bd. of Cty. Comm'rs of Arapahoe Cty. v. Intermountain Rural Elec. Ass'n, 655 P.2d 831	148+7	Authority to condemn under power of eminent domain may be conferred by state upon governmental subdivision or other entity expressly by statute or by necessary implication from rights, powers, and duties conferred by legislature; however, even though purpose for which property is sought to be condemned is "public use" within meaning of constitutional provision, in absence of express or necessarily implied statutory condemnation authority, private property may not be condemned. C.R.S.1973, 38-1-101 to 38-1-121; Const. Art. 2, S 15.	When does the right to condemn private property exists?	Eminent Domain - Memo 19 - AKA.doc	LEGALEASE-00002808-LEGALEASE-00002809
Nat. Res. Def. Council v. U.S. E.P.A., 966 F.2d 1292	1.49E+18	Environmental Protection Agency (EPA) lacks authority to ignore unambiguous deadlines set by Congress for issuing regulations.	Does the Environmental Protection Agency have the authority to ignore unambiguous deadlines set by the Congress?	Environmental Law - Memo 57 - AKA.doc	LEGALEASE-00002845-LEGALEASE-00002846
People v. Illinois Pollution Control Bd., 119 Ill. App. 3d 561	1.49E+18	Rules for which Pollution Control Board lacks statutory authority to promulgate are void.	"If the Pollution Control Board lacks statutory authority to promulgate, is the rule void?"	Environmental Law - Memo 58 - AKA.doc	LEGALEASE-00002847-LEGALEASE-00002848
U. S. Steel Corp. v. Illinois Pollution Control Bd., 52 Ill. App. 3d 1	149E+682	Burden of establishing the invalidity of water effluent regulations of the Pollution Control Board rested with petitioner steel company. S.H.A. ch. 1111/212, SS 1029, 1041; Supreme Court Rules, rule 335, S.H.A. ch. 110A, S 335.	Who has the burden to establish the invalidity of the regulations promulgated by the Pollution Control Board?	Environmental Law - Memo 60 - AKA.doc	LEGALEASE-00002851-LEGALEASE-00002852

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Howard v. Ferrellgas Partners, 748 F.3d 975	25T+112	While the Federal Arbitration Act (FAA) favors arbitration, before the FAA's heavy hand in favor of arbitration swings into play, the parties themselves must agree to have their disputes arbitrated. 9 U.S.C.A. S 1 et seq.	Do the parties themselves have to agree for their disputes to be arbitrated?	Alternative Dispute Resolution - Memo 104 - JS.docx	ROSS-003284016-ROSS-003284017
Piggly Wiggly Operators' Warehouse v. Piggly Wiggly Operators' Warehouse Indep. Great Truck Drivers Union, Local No. 1, 611 F.2d 580	231H+1578	Where neither employer nor union questioned the arbitrability of dispute, stated in grievance, as to whether purported section of collective bargaining agreement was in fact a valid term of the agreement, such grievance defined arbitrator's authority without regard to whether the parties had a prior legal obligation to submit that dispute.	Does the grievance submitted to the arbiter define his authority?	005245.docx	LEGALEASE-00116812-LEGALEASE-00116814
Adkins v. Labor Ready, 303 F.3d 496	25T+112	Even though arbitration has a favored place, there still must be an underlying agreement between the parties to arbitrate.	"If arbitration has a favored place, is there a need for an underlying agreement between the parties to arbitrate?"	005258.docx	LEGALEASE-00116837-LEGALEASE-00116838
Adamovic v. METME Corp., 961 F.2d 652	25T+113	Federal policy favoring arbitration does not give courts license to compel arbitration absent agreement to do so.	DoesFederal policy favoring arbitration give courts license to compel arbitration?	Alternative Dispute Resolution - Memo 109 - JS.docx	LEGALEASE-00003378-LEGALEASE-00003379
Nat. Res. Def. Council v. U.S. E.P.A., 797 F. Supp. 194	1.49E+19	Impossibility claims by Environmental Protection Agency (EPA), made in connection with statutorily mandated time limits, must be carefully scrutinized, and EPA's burden in such cases is especially heavy.	How should courts review claims of impossibility made by the Environmental Protection Agency (EPA)?	005025.docx	LEGALEASE-00117213-LEGALEASE-00117214
United States v. Valenzano, 123 F.3d 365	164T+4	Congress intended that Hobbs Act's protection of interstate commerce extend as far as the Constitution permits and no farther. U.S.C.A. Const. Art. 1, S 8, cl. 3; 18 U.S.C.A. S 1951(a).	What did Congress intend to achieve by the enactment of the Hobbs Act?	005069.docx	LEGALEASE-00117188-LEGALEASE-00117190
Gray v. Wackenhut Servs., 721 F. Supp. 2d 282	272+202	Under New York Law, to establish a prima facie case of negligence, a plaintiff must demonstrate the existence of a duty, a breach of that duty, and that the breach of such duty was the proximate cause of his or her injuries.	Can a defendant be held liable for negligence when there is an absence of duty of care?	005133.docx	LEGALEASE-00117246-LEGALEASE-00117247
Seguro v. Cumiskey, 82 Conn. App. 186	272+210	The nature of duty imperative to a negligence cause of action and the specific persons to whom it is owed are determined by the circumstances surrounding the conduct of the individual.	How have courts defined the term duty as an essential element of negligence?	005135.docx	LEGALEASE-00117248-LEGALEASE-00117249
Bradley v. Avis Rental Car Sys., 902 F. Supp. 814	237+33	Under Illinois law, statements that falsely impute commission of criminal offense involving moral turpitude are defamatory per se; it is not necessary for statement to contain technical language of criminal charge in assessing whether statement is in fact defamatory per se.	Should technical words and language be used in defamatory statements?	Libel and Slander - Memo 66 - JS.docx	ROSS-003297921-ROSS-003297923
Yeakey v. Hearst Commc'ns, 156 Wash. App. 787	237+30	The falsity prong of a defamation claim is satisfied with evidence that a statement is probably false or leaves a false impression due to omitted facts.	What is the meaning of the term falsity in defamation law?	Libel and Slander - Memo 61 - JS.docx	ROSS-003287165-ROSS-003287166
Neely v. Wilson, 418 S.W.3d 52	237+30	Under "substantial truth doctrine," if a broadcast taken as a whole is more damaging to the plaintiff's reputation than a truthful broadcast would have been, the broadcast is not substantially true and is actionable as defamation; this evaluation involves looking to the "gist" of the broadcast.	What is the use of substantial truth doctrine in defamation?	000552.docx	LEGALEASE-00117341-LEGALEASE-00117342

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In re Bounds, 495 B.R. 725	253+862	When community property is held in one spouse's name only, there is presumption under Texas law that it is sole-management community property. V.T.C.A., Family Code S 3.104(a).	Can a property be presumed as community property if it is held in the name of one spouse only?	005115.docx	LEGALEASE-00117331-LEGALEASE-00117332
Webb v. Pioneer Bank & Tr. Co., 530 So. 2d 115	253+892	Consent or concurrence of both spouses to management, control, or disposition of community property is required only in instances specified by law. LSA-C.C. art. 2346.	Does a managing spouse have the right to dispose of community property?	Marriage and Cohabitation- Memo 50 - JS.docx	LEGALEASE-00003898-LEGALEASE-00003899
Zimmerman v. Carmack, 292 A.D.2d 601	386+10	Allegations by next door neighbor that homeowners removed lawn ornaments from the neighbor's backyard, that homeowners damaged neighbor's barbecue grill, and that they diverted rainwater onto neighbor's yard causing flooding, stated claim for trespass.	What is the essence of a trespass action?	Trespass - Memo 14 - RK.docx	ROSS-003324980-ROSS-003324981
TDM Farms of N. Carolina v. Wilhoite Family Farm, 969 N.E.2d 97	386+10	"Trespass" is defined as an unlawful interference with one's person, property, or rights; any unauthorized intrusion or invasion of private premises or land of another.	How is trespass defined?	Trespass - Memo 17 - RK.docx	ROSS-003311718-ROSS-003311719
Lightning Oil Company v. Anadarko E&P Onshore, 520 S.W.3d 39	386+12	"Trespass" to real property is an unauthorized entry upon the land of another, and may occur when one enters, or causes something to enter, another's property.	What constitutes a trespass to real property?	Trespass - Memo 25 - RK.docx	ROSS-003297666-ROSS-003297667
Reeves v. Meridian S. Ry., 61 So. 3d 964	386+2	A trespass is committed even if the trespasser has a good-faith belief that he has a right to enter the land.	Can a trespass be committed even if the trespasser has a good-faith belief that he has a right to enter the land ?	Trespass - Memo 49 - JS.docx	LEGALEASE-00004176-LEGALEASE-00004177
Reeves v. Meridian S. Ry., 61 So. 3d 964	386+2	A trespass is committed even if the trespasser has a good-faith belief that he has a right to enter the land.	Can a trespass be committed even if the trespasser has a good-faith belief that he has a right to enter the land?	Trespass - Memo 49 - JS.docx	LEGALEASE-00004292-LEGALEASE-00004293
Alexander v. State, 126 Tex. Crim. 625	203+500	Every killing is unlawful unless expressly excused or justified by the law.	"Is every killing considered to be unlawful unless expressly excused, or justified by the law?"	Homicide - Memo 10 - RK.docx	ROSS-003297652-ROSS-003297654
State v. Neumann, 111, 348 Wis. 2d 455	211+1558	For purposes of determining whether state law imposes a legal duty on a parent to furnish medical care to his or her child and, if so, under what circumstances, numerous state statutes impose responsibility on parents for the care of their children, including the requirement that they provide medical care when necessary; these statutes demonstrate the legislature's recognition of the legal duty of parents to support and protect their children, including providing them with medical care, when necessary. W.S.A. 48.13(10), 767.41(1m)(f, g, i).	Do parents have a legal duty to provide medical care for a child if necessary?	Homicide - Memo 24 - RK.docx	LEGALEASE-00004386-LEGALEASE-00004387
In re Revel AC, 532 B.R. 216	233+546	Under New Jersey law, where the intentions of the parties is unclear, the burden is on the party asserting the existence of a lease to demonstrate a landlord-tenant relationship.	"When ambiguity arises, is the burden on the party asserting to demonstrate the existence of the lease?"	Landlord and Tenant - Memo 35 - TH.docx	LEGALEASE-00004440-LEGALEASE-00004442
United States v. Davidson, 139 F.2d 908	315+63	Under Texas law an "equitable title" is a right enforceable in equity to have legal title to real estate or the fruits thereof transferred to the owner of the right.	What is an equitable title under property law?	Property - Memo 25 - THJS.docx	LEGALEASE-00004478-LEGALEASE-00004482
Costanza v. Dep't of Env'tl. Res., 146 Pa. Cmwlth. 588	1.49E+19	Power to grant declaratory relief was not implied by power of Environmental Hearing Board to issue adjudications. 35 P.S. S 7514(a).	Is there an express grant of power upon the Environmental Hearing Board to provide declaratory relief?	000405.docx	LEGALEASE-00117777-LEGALEASE-00117778
Sunderland v. United States, 266 U.S. 226	315+22	Tenure, transfer, control, and disposition of land subject to exclusive jurisdiction of state.	"Are tenure, transfer, control, and disposition of land subject to the exclusive jurisdiction of a state?"	Property - Memo 23 - JS.docx	ROSS-003310746-ROSS-003310747

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
English v. Bd. of Sch. Comm'rs of Mobile Cty., 83 F. Supp. 3d 1271	78+1119	Title VII was not designed to make federal courts second-guess the business judgment of employers, and because work assignment claims strike at the very heart of an employer's business judgment and expertise, absent unusual circumstances, they typically do not constitute adverse employment actions supporting a discrimination claim. Civil Rights Act of 1964, S 703(a)(1), 42 U.S.C.A. S 2000e-2(a)(1).	Do federal courts second-guess the business judgment of employers?	Labor and Employment - Memo 4 - VP.docx	LEGALEASE-00004772-LEGALEASE-00004773
Brown v. Johnson, 118 Tex. 143	233+525	Relation of landlord and tenant is question of fact, and may be proved or disproved by parol evidence.	Can the relation between a landlord and a tenant be disproved by parol evidence?	000816.docx	LEGALEASE-00117948-LEGALEASE-00117949
Harasz v. Katz, 239 F. Supp. 3d 461	249+3	Under Connecticut law, to be liable for malicious prosecution, an individual need not personally initiate a criminal proceeding against the plaintiff; he or she may procure that initiation by someone else.	When can an individual be liable for a malicious-prosecution?	Malicious Prosecution - Memo 5 - MS.docx	LEGALEASE-00004814-LEGALEASE-00004816
Mickas v. Mickas, 229 Ga. 10	134+90	Where the substance of plaintiff's pleading seeking a divorce was sufficient to comport with the statutory requirements, whether the pleading was denominated a "complaint" or "petition" was immaterial. Code, SS 81A-104(e) (1) (iii), 81A-106(a), 102-102, subd. 8.	Does the substance of a pleading determine its nature?	000867.docx	LEGALEASE-00117937-LEGALEASE-00117939
Bhd. Ry. Carmen of U.S. & Canada, AFL-CIO-CLC v. Norfolk & W. Ry. Co., 745 F.2d 370	231H+1625	Judicial review of an arbitration panels' decision involving a minor dispute between a railroad and its employees under the Railway Labor Act is extremely limited. Railway Labor Act, S 3, subds. 1(i), 2, 45 U.S.C.A. S 153, subds. 1(i), (2).	Is the courts review of an arbitration panels decision limited?	Alternative Dispute Resolution - Memo 165 - RK.docx	ROSS-003302131-ROSS-003302132
In re D & B Swine Farms, 430 B.R. 737	51+2049	Customer's alleged postpetition breaches of nursery and finishing agreements with Chapter 11 debtor-swine farm operator were "core" matters within bankruptcy court's jurisdiction, warranting denial of enforcement of nursery agreement's arbitration provision on grounds that ordering arbitration and staying debtor's adversary proceeding would substantially interfere with debtor's reorganization efforts; any monies that debtor would recover on its contract claims would be the only assets of estate, and amounts that debtor sought to recover for postpetition breaches were not available prepetition and so were integral part of bankruptcy case. 28 U.S.C.A. S 157(b).	When can arbitration provisions be enforced in bankruptcy courts?	Alternative Dispute Resolution - Memo 167 - RK.docx	ROSS-003297293-ROSS-003297295
Metro. Milwaukee Ass'n of Commerce v. Milwaukee Cty., 431 F.3d 277	231H+1	State may not use its spending power as pretext for regulating labor relations.	Can the state use its spending power for regulating labor relations?	Labor and Employment - Memo 6 - VP.docx	LEGALEASE-00004958-LEGALEASE-00004959
Cayuga Nation v. Tanner, 824 F.3d 321	209+117	The Bureau of Indian Affairs (BIA) has the authority to make recognition decisions regarding tribal leadership, but only when the situation has deteriorated to the point that recognition of some government was essential for Federal purposes; thus, the BIA has both the authority and responsibility to interpret tribal law when necessary to carry out the government-to-government relationship with the tribe.	What is the relevance of the Bureau of Indian Affairs?	019434.docx	LEGALEASE-00117841-LEGALEASE-00117842

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Matter of Clem, 29 B.R. 3	51+2311	While a corporation or a partnership is recognized as a "person" by the Bankruptcy Code and may be a debtor, there is no provision in the Code authorizing such an entity to jointly file for relief with any other. Bankr.Code, 11 U.S.C.A. SS 101(30), 109.	Can a partnership be a debtor?	022353.docx	LEGALEASE-00118084- LEGALEASE-00118085
Bowen Eng'g v. Estate of Reeve, 799 F. Supp. 467	149E+461	While New Jersey Environmental Rights Act generally allows for citizen enforcement of state environmental laws, it does not create any independent substantive rights, and thus does not give rise to private right to recover cleanup costs under New Jersey Spill Act, which does not itself provide for private recovery of cleanup costs. N.J.S.A. 2A:35A-1 to 2A:35A-14, 58:10-23.11f, 58:10-23.11g.	Does the Environmental Rights Act (ERA) confer any independent substantive rights?	000936.docx	LEGALEASE-00118217- LEGALEASE-00118218
Jonkers v. Summit Twp., 278 Mich. App. 263	20+68	In cases in which the adverse claimant claims title under color of deed, disseisin occurs when the record owner first receives notice of the adverse deed.	When does Disseisin occur?	Property - Memo 38 - RM.docx	ROSS-003322289-ROSS- 003322291
Rhine v. Union Carbide Corp., 343 F.2d 12	25T+113	Under federal law, it is now a clearly established national policy to encourage use of arbitration. Labor Management Relations Act, 1947, S 203(d), 29 U.S.C.A. S 173(d); 9 U.S.C.A. SS 3, 4.	Is encouraging arbitration a national policy under federal law?	001045.docx	LEGALEASE-00118104- LEGALEASE-00118105
Backoff v. Weiner, 305 Mass. 375	233+501	The reciprocal obligations of landlord and tenant do not depend upon validity of landlord's title.	Do reciprocal obligations between landlord and tenant depend upon the validity of landlords title?	001094.docx	LEGALEASE-00118125- LEGALEASE-00118128
Graphic Commc'ns Union, Chicago Paper Handlers' & Electrotypers' Local No. 2 v. Chicago Tribune Co., 779 F.2d 13	231H+1519	There is strong federal policy in favor of arbitrating disputes in general and labor disputes in particular.	Is there a strong federal policy in favor of arbitrating labor disputes?	Alternative Dispute Resolution - Memo 181 - RK.docx	ROSS-003297675-ROSS- 003297676
S. Louisiana Cement v. Van Aalst Bulk Handling, B.V., 383 F.3d 297	25T+114	Congress's intent in enacting the section of the Federal Arbitration Act (FAA) governing appellate review of arbitration orders was to favor arbitration, and it did so by authorizing immediate appeals from orders disfavoring arbitration and forbidding immediate appeals from orders favoring arbitration. 9 U.S.C.A. S 16.	Does the Federal Arbitration Act govern appellate review of arbitration orders?	Alternative Dispute Resolution - Memo 196 - RK.docx	LEGALEASE-00005473- LEGALEASE-00005474
Joiner v. City of Dallas, 380 F. Supp. 754	148+1	Power of eminent domain is offspring of political necessity and is inherent power inseparable from sovereignty unless denied by fundamental law. Vernon's Ann.Tex.Civ.St. arts. 3264-3271, 3266, subd. 6, 6081e; 42 U.S.C.A. SS 1981-1983, 1988; Vernon's Ann.St.Tex.Const. art. 1, S 17.	Is eminent domain the offspring of necessity?	001275.docx	LEGALEASE-00118352- LEGALEASE-00118354
Millennium Park Joint Venture v. Houlihan, 241 Ill. 2d 281	233+531	The essential elements of a lease include: (1) the extent and bounds of the property, (2) the term of the lease, (3) the amount of rent, and (4) the time and manner of payment.	What are the essential elements required of a lease?	Landlord and Tenant - Memo 57 - RK.docx	ROSS-003283976-ROSS- 003283977
Utah Power & Light Co. v. Pfost, 286 U.S. 165	83+62.1	Respecting interstate transmission of electrical energy, state legislation is subject to paramount authority of commerce clause. Laws Idaho 1931, Ex.Sess., c. 3, S 1 et seq.; U.S.C.A.Const. art. 1, S 8, cl. 3.	Is the transmission of electric current from one state to another an interstate commerce subject to the Commerce Clause?	000912.docx	LEGALEASE-00118698- LEGALEASE-00118699
Lake Cty. Tr. Co. v. Two Bar B, 238 Ill. App. 3d 589	315+22	Law of the state where the real estate is situated governs the rights of the parties.	Does the law of the state where the real estate is situated govern the rights of the parties?	Property - Memo 29 - RM.docx	LEGALEASE-00005929- LEGALEASE-00005930

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Cassidy v. Pavlonnis, 227 Or. App. 259	315+34	A property owner's right to convey the property in exchange for money is a real property interest.	Can a property owner's right to convey the property in exchange for money be termed as a real property interest?	Property - Memo 32 - RM.docx	ROSS-003315326-ROSS-003315327
Pinnacle Properties V v. Mainline Supply of Atlanta, 319 Ga. App. 94	315+605	Every legal interest in real and personal property can be seized and sold.	Can every legal interest in real and personal property be seized and sold?	000972.docx	LEGALEASE-00118466-LEGALEASE-00118467
Juarez v. Select Portfolio Servicing, 708 F.3d 269	266+1408	Under Massachusetts law, assignment of mortgage is conveyance of interest in land that requires writing signed by grantor.	Does a conveyance of an interest in land require a writing signed by the grantor?	000976.docx	LEGALEASE-00118446-LEGALEASE-00118447
Lifevantage Corp. v. Domingo, 208 F. Supp. 3d 1202	237+32	Under Utah's tort law, multi-level marketing company had an independent duty not to defame former lead distributor, and thus economic loss rule did not bar distributor's defamation claim against company; company owed a tort duty not to defame distributor regardless of the terms of independent distributor agreement.	Does economic loss rule bar a claim for defamation?	05375.docx	LEGALEASE-00080809-LEGALEASE-00080810
Townsend v. Cty. of Los Angeles, 49 Cal. App. 3d 263	46H+9	Fundamental right of attorney to practice law does not encompass the right to work for a particular employer, whether that employer be public or private.	Is there a fundamental right to work for a particular employer?	Labor and Employment - Memo 25 - VP.docx	ROSS-003298536-ROSS-003298537
Skokie Valley Beverage Co. v. Beer, Soft Drinks, Water, Fruit Juice, Carbonic Gas, Liquor Sales Drivers, Helpers, Inside Workers, Bottlers, Warehousemen, Sch., Sightseeing, Charter Bus Drivers, Gen. Promotional Employees of Affiliated Indus., Local Union No. 744., 563 F. Supp. 460	231H+2057	Unions legally are entitled to enforce their rights to strike and only to extent they have contracted away their right to strike over disputes may they be enjoined from doing so. Norris-La Guardia Act, S 4, 29 U.S.C.A. S 104; Labor Management Relations Act, 1947, S 301(a), 29 U.S.C.A. S 185(a).	Do the labor union has a general right to strike?	001396.docx	LEGALEASE-00118471-LEGALEASE-00118472
Cebe Farms v. United States, 116 Fed. Cl. 179	148+2.1	"Physical taking" under the Fifth Amendment constitutes a permanent and exclusive occupation by the government that destroys the owner's right to possession, use, and disposal of the property. U.S. Const. Amend. 5.	What are physical takings?	001440.docx	LEGALEASE-00118560-LEGALEASE-00118561
PBM Prod. v. Mead Johnson Nutrition Co., 678 F. Supp. 2d 390	237+1.6	Virginia applies the lex loci delicti rule, that is, the law of the place of the wrong, to defamation actions.	Is lex loci delicti applied to defamation cases?	001481.docx	LEGALEASE-00118490-LEGALEASE-00118491
Brown v. E.F. Hutton & Co., 610 F. Supp. 76	25T+113	There is a strong federal policy favoring arbitration, and thus any party arguing waiver of arbitration bears a heavy burden of proof.	Who bears the burden of proof in waiving arbitration?	001666.docx	LEGALEASE-00118710-LEGALEASE-00118711
Rush v. Oppenheimer & Co., 779 F.2d 885	25T+113	Policies underlying federal arbitration statute (9 U.S.C.A. S 1 et seq.) favor enforcement of agreements to arbitrate disputes.	Do the policies underlying the Federal Arbitration Act favor enforcement of agreements to arbitrate disputes?	001679.docx	LEGALEASE-00118723-LEGALEASE-00118724
Oneida Indian Nation of New York v. New York, 194 F. Supp. 2d 104	209+201	Laches and adverse possession were not permissible defenses to Oneida Indian Nations' claims under Nonintercourse Act. 25 U.S.C.A. S 177.	Is laches a permissible defense under the Indian Nonintercourse Act?	Indians - Memo 26 - TH.doc	LEGALEASE-00006251-LEGALEASE-00006253

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Adelson v. Harris, 973 F. Supp. 2d 467	302+358	Under Nevada law, political advocacy group's internet petition and press release requesting that presidential candidate not to accept funds from casino owner were not "communications in direct connection with issue under consideration by judicial or executive body," for purposes of anti-SLAPP (strategic lawsuit against public participation) statute, even though petition arose following publication of news report of former casino employee's wrongful termination suit, in which he alleged that owner had "personally approved" of prostitution in his Chinese casinos. West's NRSA 41.660.	What is communication in good faith in defamation law?	002285.docx	LEGALEASE-00118603-LEGALEASE-00118604
Bugenig v. Hoopa Valley Tribe, 266 F.3d 1201	209+126	The power of Congress in Indian affairs, although plenary, is not absolute; it must be rationally related to the protection of Indians. U.S.C.A. Const. Art. 1, S 8, cl. 3; U.S.C.A. Art. 2, S 2, cl. 2.	Is the power of Congress in Indian affairs absolute?	003222.docx	LEGALEASE-00118514-LEGALEASE-00118515
Lake Cty. Tr. Co. v. Two Bar B, 238 Ill. App. 3d 589	315+22	Law of the state where the real estate is situated governs the rights of the parties.	Does the law of the state where the real estate is situated govern the rights of the parties?	Property - Memo 29 - RM.docx	ROSS-003330052-ROSS-003330053
Underground Sols. v. Palermo, 41 F. Supp. 3d 720	13+17	Under Illinois' doctrine of depechage, which refers to the process of cutting up a case into individual issues, subjecting each to a separate choice-of-law analysis, in analyzing a state anti-strategic lawsuit against public participation (anti-SLAPP) statute cited as a defense to a defamation claim, the choice-of-law question regarding the anti-SLAPP law is treated separately from whether a statement is defamatory; this is because the anti-SLAPP question involves whether a statement is privileged, not whether its content is defamatory.	What is doctrine of depechage in defamation cases?	Libel and Slander - Memo 100 - JS.docx	LEGALEASE-00006392-LEGALEASE-00006394
Jones v. Dugger, 518 So. 2d 295	203+510	The "year and a day" rule is a rule of evidence rather than an element of the offense of murder.	Is the year and a day rule considered as a rule of evidence rather than an element of offense of murder?	001559.docx	LEGALEASE-00118996-LEGALEASE-00118997
Morrow v. City of Cleveland, 73 Ohio App. 460	302+6	Facts judicially noticed are not ordinarily required to be pleaded, and, if pleaded matter conflicts with judicial knowledge of the court, the latter controls.	Should facts judicially noticed be pleaded?	001581.docx	LEGALEASE-00119053-LEGALEASE-00119054
Levy v. Delaware, L. & W.R. Co., 211 A.D. 503	157+1	Judicial knowledge will not commonly aid pleading, nor be exercised to regulate mode of bringing controversies into court, and of stating and conducting them.	Does judicial notice aid pleading?	001587.docx	LEGALEASE-00119059-LEGALEASE-00119061
United States v. Cramer, 137 F.2d 888	384+1	A treasonable intent, and an overt act in manifestation of that intent, are essential elements to a conviction for "treason". Cr.Code S 1, 18 U.S.C.A. S 1; U.S.C.A. Const. art. 3, S 3, cl. 1.	Is an overt act in manifestation of the intent an essential element to the conviction for treason?	Treason - Memo 7 - MS.docx	ROSS-003298633-ROSS-003298634
Com. v. Stafford, 451 Pa. 95	203+507	One charged with homicide cannot escape liability merely because the blow he inflicts is not mortal, or the immediate cause of death; if his blow is the legal cause in that it started a chain of causation which lead to the death, he is guilty of homicide.	Is criminal responsibility confined to a sole or immediate cause of death?	Homicide - Memo 45 - TH.docx	LEGALEASE-00006852-LEGALEASE-00006853
Lummi Indian Tribe v. Whatcom Cty., Wash., 5 F.3d 1355	209+120	Parcels of land approved for alienation by federal government and then reacquired by tribe did not then become inalienable by operation of Nonintercourse Act; because parcels remained alienable, they were also taxable. 25 U.S.C.A. S 177.	Would land be rendered inalienable upon reacquisition by a tribe?	Indians - Memo 27 - TH.doc	LEGALEASE-00006860-LEGALEASE-00006861

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Washington, 853 F.3d 946	209+123	United States may abrogate treaties with Indian tribes, just as it may abrogate treaties with fully sovereign nations, but only by Act of Congress that clearly expresses intent to do so.	Can the United States abrogate a treaty it entered with an Indian tribe?	001771.docx	LEGALEASE-00118899-LEGALEASE-00118900
United States v. Washington, 853 F.3d 946	209+123	United States may abrogate treaties with Indian tribes, just as it may abrogate treaties with fully sovereign nations, but only by Act of Congress that clearly expresses intent to do so.	How can the United States abrogate a treaty with an Indian tribe?	001773.docx	LEGALEASE-00118828-LEGALEASE-00118829
Shy v. Navistar Int'l Corp, 781 F.3d 820	25T+114	The Federal Arbitration Act applies even when the agreement is limited to only a particular class of disputes. 9 U.S.C.A. S 1 et seq.	Does the Federal Arbitration Act apply when an arbitration agreement is limited to a particular class of disputes?	002145.docx	LEGALEASE-00119105-LEGALEASE-00119106
Nichols v. Stapleton, 877 F.2d 1401	25T+114	Amendment of the Federal Arbitration Act removing appellate jurisdiction over interlocutory arbitration orders applies retrospectively because it addresses remedies and procedures, and does not otherwise alter substantive rights. 9 U.S.C.A. S 15.	Does the Judicial Improvement Act apply retroactively?	002158.docx	LEGALEASE-00119118-LEGALEASE-00119119
AT&T Mobility LLC v. Concepcion, 563 U.S. 333	25T+114	The principal purpose of the Federal Arbitration Act (FAA) is to ensure that private arbitration agreements are enforced according to their terms. 9 U.S.C.A. SS 2-4.	What is the principal purpose of Federal Arbitration Act (FAA)?	002180.docx	LEGALEASE-00119140-LEGALEASE-00119141
Ex parte Compass Bank, 77 So. 3d 578	13+1	A "cause of action" grows out of the wrongful act, and not the various forms of damages that may flow from the single wrongful act.	Does a cause of action grow out of a wrongful act?	Action - Memo 15 - MS.docx	ROSS-003283964-ROSS-003283965
Gonzales v. California Dep't of Corr., 739 F.3d 1226	13+1	Under California law, a "cause of action" is comprised of a "primary right" of the plaintiff, a corresponding "primary duty" of the defendant, and a wrongful act by the defendant constituting a breach of that duty.	What does a cause of action comprise of?	Action - Memo 2 - MS.docx	ROSS-003295962-ROSS-003295963
State v. Olson, 182 Wash. App. 362	110+1159.1	Facts in embezzlement prosecution were for jury, and Supreme Court would not disturb guilty verdict unless evidence as a matter of law was insufficient to justify guilty verdict. SDC 13.4006.	When will the court disturb a jurys findings or guilty verdict?	00773.docx	LEGALEASE-00081557-LEGALEASE-00081558
Bonneville Power Admin. v. F.E.R.C., 422 F.3d 908	145+1.5	Even though governmental and municipal utilities are public in normal parlance, they are not "public utilities" under the Federal Power Act (FPA). Federal Power Act, SS 1, 321 et seq., as amended, 16 U.S.C.A. SS 792, 791a et seq.	Can governmental and municipal utilities be termed as public utilities under the Federal Power Act?	Electricity - Memo 12 - JS.docx	ROSS-003282984-ROSS-003282985
In re Pennichuck Water Works, 160 N.H. 18	317A+195	The appealing party may overcome presumption that findings of fact by the Public Utilities Commission (PUC) are presumed prima facie lawful and reasonable only by showing that there was no evidence from which the PUC could conclude as it did. RSA 541:13.	Are findings of fact by the Public Utilities Commission presumed lawful and reasonable?	Electricity - Memo 23 - RK.docx	ROSS-003312137-ROSS-003312138
Glisson v. State, 188 Ga. App. 152	207+5	Incest statute, while prohibiting sexual relations between certain persons related only by affinity, did not include stepgrandfather-stepgranddaughter relationship and thus, stepgrandfather could not be convicted of incest for sexual conduct with stepgranddaughter. O.C.G.A. S 16-6-22(a).	Does sexual intercourse between step-grandfather and step-grandchild amount to incest?	Incest - Memo 49 - JS.docx	ROSS-003285633-ROSS-003285634
Jefferson Cty. Sch. Dist. No. R-1 v. Indus. Comm'n, 698 P.2d 1350	15A+1458	In proper case, doctrines of res judicata and collateral estoppel may be applied to administrative proceedings.	Is the doctrine of collateral estoppel applicable to administrative proceedings?	Administrative Law - Memo 171 - RK.docx	ROSS-003325673-ROSS-003325674

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Dinger v. State, 540 N.E.2d 39	207+14	Proof of slightest penetration of defendant's stepdaughter was sufficient in prosecution for criminal deviate conduct, child molesting, and incest; penetration could be inferred from stepdaughter's physical condition soon after crimes. IC 1971, 35-42-4-1 to 35-42-4-3, 35-46-1-3.	Can penetration be inferred from a victims physical condition?	Incest - Memo 59 - RK.docx	LEGALEASE-00007906-LEGALEASE-00007907
Hetherington v. Camp Bird Min., Leasing & Power Co., 70 Colo. 531	145+11(1)	Electricity made by artificial means is a product of manufacture, and is personal property.	Is electricity made by artificial means a product of manufacture and personal property?	Electricity - Memo 33 - RK.docx	ROSS-003308776-ROSS-003308778
Vill. of Tiki Island v. Ronquille, 463 S.W.3d 562	148+2.1	The economic impact of a regulation may indicate a taking even if the landowner has not been deprived of all economically beneficial use of his property. Tex. Const. art. 1, S 17.	Can the economic impact of a regulation lead to a taking?	002397.docx	LEGALEASE-00119498-LEGALEASE-00119499
Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419	148+2.1	Economic impact of government regulation, especially the degree of interference with investment-backed expectations, is of particular significance in determining whether government regulation constitutes a "taking" within meaning of taking clause as is a character of the governmental action. U.S.C.A.Const.Amends. 5, 14.	When can a taking be readily found?	Eminent Domain - Memo 82 - RK.docx	LEGALEASE-00007985-LEGALEASE-00007986
Shalett v. Brownell-Kidd Co., 153 So.2d 425	289+528	Commercial partnerships are exclusively confined to ownership of movable property, and when a commercial partnership purports to purchase immovable property, the partners become co-owners of it in their individual capacity. LSA-C.C. art. 2824.	Is a commercial partnership confined to movable property?	Partnership - Memo 77 - RK.docx	ROSS-003282359
York Rd. Realty Co. v. Cheltenham Twp., 136 A.3d 1047	148+271	Claim under statute governing consequential damages resulting from condemnation is separate and distinct from a claim for a de facto taking. 26 Pa.C.S.A. SS 502(c)(1), 714.	Is a claim for consequential damages separate and distinct from a claim of a de facto taking?	001894.docx	LEGALEASE-00119658-LEGALEASE-00119659
Norfolk Redevelopment & Hous. Auth. v. Chesapeake & Potomac Tel. Co. of Virginia, 464 U.S. 30	393+347	Telephone company, which was required to relocate some of its transmission facilities because of street realignment resulting from federally funded urban renewal project, was not a "displaced person" entitled to relocation benefits under the Uniform Relocation Assistance and Real Property Acquisitions Policies Act since the Act did not change the common-law principle that utility forced to relocate from public right-of-way must do so at its own expense. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, SS 101 et seq., 202(a)(1), 42 U.S.C.A. SS 4601 et seq., 4622(a)(1).	Should public utilities bear the expense of their relocation for the fulfillment of a public need?	001980.docx	LEGALEASE-00119678-LEGALEASE-00119679
Piven v. Comcast Corp., 397 Md. 278	401+4	Transitory actions can ordinarily be brought wherever the defendant works, lives, or has a principal office.	Can transitory actions be brought where the defendant works or lives?	Venue - Memo 57 - ANG.docx	ROSS-003325091-ROSS-003325093
Circuit City Stores v. Adams, 194 F.3d 1070	25T+124	Arbitration agreement signed by employee at time of job application was an "employment contract," and thus the Federal Arbitration Act (FAA) was inapplicable to suit by employee against employer under state fair employment statute, and district court lacked authority under the FAA to compel arbitration, notwithstanding a disclaimer in the agreement stating that it did not form a contract of employment and in no way altered the at-will status of employee's employment, as the agreement was a condition precedent to employment. 9 U.S.C.A. SS 1 et seq., 4.	Does the Federal Arbitration Act (FAA) apply to labor contracts?	002773.docx	LEGALEASE-00119708-LEGALEASE-00119709

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Hardy v. Clendening, 25 Ark. 436	386+3	Any unlawful exercise of authority over the goods of another will support trespass, even though no force may be exerted. Thus trespass will lie against the purchaser, with notice, of the goods of a third person at a sale under execution.	Can an unlawful exercise of authority over the goods of another support an action for trespass?	Trespass - Memo 83 - TH.docx	ROSS-003298107-ROSS-003298109
Mennen v. Easter Stores, 951 F. Supp. 838	231H+826	"Constructive discharge" exists when employer deliberately renders employee's working conditions intolerable and thus forces employee to quit.	When does a constructive discharge exist?	Labor and Employment - Memo 58 - VP.docx	ROSS-003283821-ROSS-003283823
Tidwell v. Meyer's Bakeries, 93 F.3d 490	78+1123	To constitute constructive discharge, employer must deliberately create intolerable working conditions with intention of forcing the employee to quit and employee must quit.	When does a constructive discharge exist?	003271.docx	LEGALEASE-00119576-LEGALEASE-00119578
Resolute Forest Prod. v. U.S. Dep't of Agric., 219 F.Supp.3d 69	13+1	Where there is a legal right, there is also a legal remedy by suit or action at law, whenever that right is invaded.	"Is there a legal remedy by suit or action at law, when a legal right is invaded?"	002475.docx	LEGALEASE-00120024-LEGALEASE-00120025
Tinder v. Pinkerton Sec., 305 F.3d 728	25T+116	Whether a binding arbitration agreement exists is determined under principles of state contract law. 9 U.S.C.A. S 2.	Does state contract law determine the validity of arbitration agreements?	002660.docx	LEGALEASE-00120054-LEGALEASE-00120055
Stop Exploiting Taxpayers v. Jones, 211 Ariz. 576	268+108.7	Municipal ordinances setting rates charged for city-owned utility services were administrative acts rather than legislative ones, and thus, the ordinances were not subject to referendum, where the ordinances listed specific utility services that the city provided and contained schedules modifying the rates charged for those services, the ordinances did not affect the underlying statutes and ordinances through which the city owned and operated its utilities, and the rate changes were considered annually as part of the city's budget process.	Is fixing rates for electric power supplied by municipally owned utility a legislative act?	002704.docx	LEGALEASE-00120187-LEGALEASE-00120188
Starr Int'l Co. v. United States, 121 Fed. Cl. 428	148+2.2	An illegal exaction occurs under the Fifth Amendment when the Government requires a citizen to surrender property the Government is not authorized to demand as consideration for action the Government is authorized to take. U.S. Const. Amend. 5.	When does an illegal exaction occur under the law?	Eminent Domain - Memo 114 - RK.docx	ROSS-003297339-ROSS-003297341
Thiokol Chem. Corp. v. Morris Cty. Bd. of Taxation, 41 N.J. 405	238+44(2)	The difference between a "lease" and a "license" is that a lease gives exclusive possession of the premises against the world, including the owner, while a license confers a privilege to occupy under the owner.	What is the difference between a lease and a license?	Landlord and Tenant - Memo 73 - RK.docx	ROSS-003284970-ROSS-003284971
Chaney v. Whitney, 107 So. 2d 471	233+531	A "lease" is similar to a "sale", as there are three absolutely necessary essentials common to both: the thing, the price, and the consent. LSA-C.C. art. 2670.	Is a lease similar to a sale?	002747.docx	LEGALEASE-00120236-LEGALEASE-00120237
Kirton v. N. Chicago St. R. Co., 91 Ill. App. 554	386+4	If unlawful act causes immediate injury, whether it be intentional or not, trespass lies.	Can trespass occur if an unlawful act causes immediate injury regardless of it being intentional or not?	Trespass - Memo 97 - RK.docx	ROSS-003285013-ROSS-003285014
Rana v. Islam, 305 F.R.D. 53	221+180	Determining whether consular immunity applies under the Vienna Convention on Consular Relations (VCCR) involves a two-part inquiry, in which first, the court must determine whether the official's actions implicated some consular function, and second, the acts for which the consular officials seek immunity must be performed in the exercise of the consular functions in question. Vienna Convention on Consular Relations, Art. 43(1), 1969 WL 97928.	Is a consular official immune from suit when the acts complained of were performed in the course of his official duties?	003001.docx	LEGALEASE-00120513-LEGALEASE-00120514

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United States v. Rosal, 191 F. Supp. 663	221+179	Under the common law of nations, diplomats-in-transit are entitled to immunity when in United States en route between their posts and home countries, although not accredited to United States.	Are diplomats in transit entitled to immunity?	003003.docx	LEGALEASE-00120515-LEGALEASE-00120516
Khanom v. Kerry, 37 F. Supp. 3d 567	24+207	Aliens' claims seeking mandamus order compelling Consul General of United States at Dhaka, Bangladesh, Secretary of State, or Secretary of Department of Homeland Security (DHS) to approve aliens' immigrant visa applications and issue immigrant visas and seeking declaratory judgment that Consul General's previous denial of visas was without basis in fact or law were jurisdictionally barred, under doctrine of consular nonreviewability, shielding from judicial review consular officer's discretionary decision to grant or deny visas.	Is a consular officials decision to withhold or issue a visa subject to judicial review?	Ambassadors and Consuls - Memo 23 - RK.docx	ROSS-003282682-ROSS-003282683
Barnes v. Lehi City, 74 Utah 321	145+1	Public Utilities Commission has no jurisdiction over municipally owned electric plants.	Does the Public Utilities Commission have jurisdiction over municipally owned electric plants?	003073.docx	LEGALEASE-00120311-LEGALEASE-00120312
Hawaii Hous. Auth. v. Midkiff, 467 U.S. 229	148+13	"Public use" requirement of Fifth Amendment for taking of private property is coterminous with scope of a sovereign's police powers. U.S.C.A. Const.Amend. 5.	Is the public use requirement coterminous with the scope of a sovereign's police powers?	003085.docx	LEGALEASE-00120345-LEGALEASE-00120346
Int'l Fed'n of Prof'l & Tech. Engineers v. United States, 111 Fed. Cl. 175	148+2.1	Government's mere assertions of ownership cannot, standing alone, constitute a Fifth Amendment taking. U.S. Const. Amend. 5.	"Can the governments mere assertion of ownership, standing alone, constitute a taking?"	Eminent Domain - Memo 130 - JS.docx	ROSS-003289327-ROSS-003289329
Evans v. State, 317 Ark. 532	207+13	Whether incest victim had subsequent sexual relations with another and whether she initially admitted or denied such conduct to investigating authorities was entirely collateral, and even if there was some relevance to that subsequent conduct, probative value was not substantially outweighed by danger of unfair prejudice. Rule of Evid., Rule 403; A.C.A. S 5-26-202.	Is consent an issue in a charge of incest?	Incest - Memo 69 - RK.docx	ROSS-003285957-ROSS-003285959
State v. Coffey, 8 Wash. 2d 504	207+7	The guilt or innocence of accused in a prosecution for incest is not affected by the consent or non-consent of prosecutrix.	Is the guilt or innocence of an accused in a prosecution for incest affected by the consent of the prosecutrix?	Incest - Memo 70 - RK.docx	ROSS-003299365-ROSS-003299367
State v. Masnik, 125 N.J.L. 34	207+10	An indictment charging that accused incestuously had carnal knowledge of body of daughter charged offense of "incest" under section of incest statute relating to incestuous conduct between parent and child, rather than same offense under preceding section covering incest not involving parent-child relationship. N.J.S.A. 2:139-1, 2:139-2.	Is carnal knowledge an element of the crime of incest?	003209.docx	LEGALEASE-00120566-LEGALEASE-00120567
State v. Rogers, 2007 MT 227	352H+184	State need not prove direct evidence of arousal, or intent to be aroused, in order to meet its burden of proving the sexual contact element of sexual assault; the jury may infer intent of sexual arousal from the defendant's acts. MCA 45-5-502.	Can the jury infer the intent of sexual arousal from the defendants acts?	Incest - Memo 81 - RK.docx	ROSS-003284256-ROSS-003284257
Cobb v. Time, 278 F.3d 629	92+2163	A "reckless disregard" for the truth of allegedly defamatory statements, showing of which will demonstrate actual malice sufficient to allow public official or public figure to recover for defamation under First Amendment, means that the defendant must have made the false publication with a high degree of awareness of probable falsity. U.S.C.A. Const.Amend. 1.	How is reckless disregard defined?	Libel and Slander - Memo 146 - RK.docx	ROSS-003296326-ROSS-003296328

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Cordier v. Lincoln County Nat. Bank, 702 S.W.2d 428	289+425	Joint tenancy, tenancy in common, tenancy by entirety, joint property, common property, or part ownership does not of itself establish a partnership. KRS 362.180(2).	Do tenants in joint tenancies in property establish partnership?	003454.docx	LEGALEASE-00120663-LEGALEASE-00120664
Bank of New York v. Nally, 820 N.E.2d 644	366+1	Application of the doctrine of equitable subrogation depends on the equities and attending facts and circumstances of each case.	Does the application of equitable subrogation depend on the facts of the case?	003535.docx	LEGALEASE-00120343-LEGALEASE-00120344
In re Trampush, 552 B.R. 817	366+1	Wisconsin does not follow either the majority or minority rules that require actual or constructive knowledge of other liens to defeat subrogation; Wisconsin, instead, has adopted the "Restatement Approach" to subrogation, which gives courts freedom in weighing the equitable concerns in each individual case, such that, in Wisconsin, equitable concerns reign supreme.	What is the scope of Restatement Approach to subrogation?	Subrogation - Memo 61 - RM C.docx	ROSS-003284189-ROSS-003284191
AJJ Enterprises, LLP v. Jean-Charles, 160 Conn. App. 375	366+1	"Subrogation" is a doctrine which equity borrowed from the civil law and administers so as to secure justice without regard to form or mere technicality.	How is subrogation administered?	003590.docx	LEGALEASE-00120405-LEGALEASE-00120406
Zurich Am. Ins. Co. v. S.-Owners Ins. Co., 248 F. Supp. 3d 1268	366+27	Under Florida law, conventional subrogation arises or flows from a contract between the parties establishing an agreement that the party paying the debt will have the rights and remedies of the original creditor.	How does subrogation generally arise?	003604.docx	LEGALEASE-00120418-LEGALEASE-00120420
Nat'l Union Fire Ins. Co. of Pittsburgh, Pa. v. KPMG Peat Marwick, 742 So. 2d 328	366+1	The right to subrogation is not absolute, but depends upon the equities and attending facts of each case.	Is a party's entitlement to subrogation dependent upon the equities and attendant facts of each case?	Subrogation - Memo 80 - ANG C.docx	ROSS-003299628-ROSS-003299629
Nat'l Union Fire Ins. Co. of Pittsburgh, Pa. v. KPMG Peat Marwick, 742 So. 2d 328	366+1	The right to subrogation is not absolute, but depends upon the equities and attending facts of each case.	Is a party's entitlement to subrogation dependent upon the equities and attendant facts of each case?	Subrogation - Memo 97 - VP C.docx	ROSS-003285220-ROSS-003285221
People v. Brown, 193 Colo. 120	146+49	There is no need for special finding of value of fraudulently converted property in embezzlement prosecution.	Is there any need for special finding of the value of fraudulently converted property in cases of embezzlement?	Embezzlement - Memo 75 - SH.docx	ROSS-003311253-ROSS-003311254
United States v. Dow, 357 U.S. 17	148+148	Generally, if the United States has entered into possession of property prior to acquisition of title, it is the former event which constitutes the act of taking, and it is that event which gives rise to claim for compensation and fixes date as of which land is to be valued and Government's obligation to pay interest accrues. Declaration of Taking Act, SS 1-5, 40 U.S.C.A. SS 258a-258e.	What factor determines the date of valuation under the takings law?	003133.docx	LEGALEASE-00120799-LEGALEASE-00120800
Bane v. State, 587 N.E.2d 97	203+668	Sudden heat is mitigator, rather than element of crime of voluntary manslaughter and, as such, once issue of sudden heat has been injected into case, burden is on state to negate its existence. West's A.I.C. 35-42-1-3, 35-42-1-3(b).	Does the state bear the burden of disproving the existence of sudden heat beyond a reasonable doubt?	Homicide - Memo 101 - RK.docx	LEGALEASE-00010418-LEGALEASE-00010419
Hayes v. Irwin, 541 F. Supp. 397	237+120(2)	Malice, which is necessary to support an award of punitive damages, is inferred by law from the character of a defamation when there is an absence of lawful excuse or absence of privilege. Ga.Code, S 105-702.	How is malice inferred in defamation?	003342.docx	LEGALEASE-00120821-LEGALEASE-00120822
Quinones v. United States, 492 F.2d 1269	237+5	As a general rule, malice is presumed or implied to exist from unprivileged publication of defamatory words actionable per se.	Is malice presumed where the defamation is actionable per se?	003356.docx	LEGALEASE-00120835-LEGALEASE-00120836

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Adiscov v. Autonomy Corp., 762 F. Supp. 2d 826	170A+673	There are two basic requirements for a pleading to comply with notice pleading rule: (1) sufficient factual allegations, and (2) plausibility of those allegations. Fed.Rules Civ.Proc.Rule 8(a), 28 U.S.C.A.	What are the two basic requirements for a pleading to comply with Rule 8?	003462.docx	LEGALEASE-00120867-LEGALEASE-00120869
Cities of Oxford, Carthage, Louisville, Starkville & Tupelo v. Ne. Mississippi Elec. Power Ass'n, 704 So. 2d 59	148+9	Amendments to Public Utilities Act of 1956 requiring Public Service Commission (PSC) cancellation of public utility's certificate of public convenience and necessity before municipality could exercise eminent domain power to acquire utility's facilities did not violate state constitutional provision prohibiting abridgment of eminent domain rights, despite contention that, by allowing utility to correct any inadequacies before Commission would cancel certificate, amended Act effectively placed ability to abridge power of eminent domain in hands of private corporations; legislature, which could grant or deny power of eminent domain to municipality, could also establish procedure or method by which power might be void. Const. Art. 7, S 190; Code 1972, SS 77-3-13(6), 77-3-17, 77-3-21.	Are municipal utility statutes subordinate to the contrary provisions of the Public Utilities Act 1956 if the legislature intends it?	042546.docx	LEGALEASE-00120903-LEGALEASE-00120904
Deutsche Bank Nat'l Tr. Co. v. Payton, App (1st), 76 N.E.3d 804	366+1	Doctrine of equitable subrogation is the remedial device designed to prevent an unjust enrichment.	Is common law or equitable right of subrogation a remedial device utilized to prevent unjust enrichment?	044333.docx	LEGALEASE-00120776-LEGALEASE-00120777
Bradley v. State Farm Mut. Auto. Ins. Co., 290 Mich. App. 156	366+1	Subrogation rights can be acquired by way of contractual assignment or under principles of equity.	Can subrogation rights be acquired by way of contractual assignment or under principles of equity?	Subrogation - Memo 357 - NS.docx	ROSS-003328293-ROSS-003328294
Dattel Family Ltd. P'ship v. Wintz, 250 S.W.3d 883	366+1	Subrogation is an equitable doctrine with the aim of placing the burden of bearing a loss where it ought to be.	Is subrogation an equitable doctrine with the aim of placing the burden of bearing a loss where it ought to be?	043928.docx	LEGALEASE-00120983-LEGALEASE-00120984
Blaney v. O'Heron, 256 Ga. App. 612	249+60(5)	Evidence of prior actions is relevant to the issue of malice, a required element of a claim of malicious prosecution, where it demonstrates that a defendant was aware from previous experience that his actions in the past had resulted in similar injuries, but nevertheless continued in his course of conduct in utter indifference to the consequences. O.C.G.A. S 51-7-40.	Is the evidence of prior acts relevant in a malicious prosecution action?	021122.docx	LEGALEASE-00120989-LEGALEASE-00120990
Com. v. Root, 191 Pa. Super. 238	368+1	Policy of law is to protect human life, including life of person who wishes to destroy his own life.	Does the policy of the law include the protection of a person who wishes to destroy his own life?	Suicide - Memo 24 - AKA.docx	ROSS-003283798-ROSS-003283799
Jenkins v. Bd. of Cty. Comm'rs of Madison Cty., 698 N.E.2d 1268	148+134	Highest and best use represents component of damages to be considered once issue of taking is resolved in favor of landowner, and once taking has been established, damages may be based upon highest and best use of property at time of taking.	"On what factor must the damages be based, once a taking has been established?"	Eminent Domain - Memo 174 -GP.docx	LEGALEASE-00010971-LEGALEASE-00010972

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Schlaikjer v. Kaplan, 296 Kan. 456	307A+3	District court's decision on a motion in limine involves a two-prong test, and to grant the motion, the court must determine that: (1) the material or evidence will be inadmissible at trial; and (2) a pretrial ruling is justified, as opposed to a ruling during trial, because (a) the mere offer or mention of the evidence during trial may cause unfair prejudice, confuse the issues, or mislead the jury; (b) the consideration of the issue during trial might unduly interrupt and delay the trial; or (c) a ruling in advance of trial may limit issues and save the parties time, effort, and cost in trial preparation.	Does a district court's decision on a motion in limine involve a two-prong test?	Pretrial Procedure - Memo # 29 - C - Kl.docx	ROSS-003288103-ROSS-003288104
BNSF R. Co. v. Phillips, 434 S.W.3d 675	307A+3	The granting of a motion in limine is not a ruling on the admissibility of the evidence and does not preserve error; a motion in limine simply prohibits references to specific issues without first obtaining a ruling on the admissibility of those issues outside the presence of the jury.	Is the granting of a motion in limine a ruling on the admissibility of the evidence and does not preserve error?	Pretrial Procedure - Memo # 53 - C - AP.docx	ROSS-003326708-ROSS-003326710
State v. Davis, 505 S.W.3d 401	352H+72	Law does not require or expect utmost resistance to a sexual assault when it appears that such resistance would be futile or would provoke a more serious injury.	Is resistance to sexual assault necessary to sustain a conviction for sexual assault?	042912.docx	LEGALEASE-00121516-LEGALEASE-00121517
Columbia Bank v. Turbeville, 143 So. 3d 964	366+1	Equitable subrogation is an equitable remedy rooted in the legal consequence of the actions and relationship between the parties.	Is equitable subrogation an equitable remedy created by the legal consequences of the acts and relationships of the parties?	043700.docx	LEGALEASE-00121346-LEGALEASE-00121347
Houston v. Bank of Am. Fed. Sav. Bank, 119 Nev. 485	366+1	"Equitable subrogation" is an equitable remedy to avoid a person's receiving an unearned windfall at the expense of another.	Is equitable subrogation a remedy to avoid an unearned windfall?	Subrogation - Memo # 487 - C - SA.docx	ROSS-003297726-ROSS-003297727
MacNab v. Fireman's Fund Ins. Co., 243 Or. 267	366+1	Before a party is entitled to subrogation to the rights of another his equity must be strong and his case clear.	"In order to be entitled to equitable subrogation, must a party's equity be strong and his case clear?"	Subrogation - Memo # 558 - C - AP.docx	ROSS-003325228-ROSS-003325229
Ameriquet Mortg. Co. v. Alton, 273 Mich. App. 84	366+1	Equitable subrogation will not be enforced where it will work injustice to the rights of those having equal equities.	Will equitable subrogation be enforced where it will work injustice to the rights of those having equal equities?	Subrogation - Memo # 579 - ES.docx	ROSS-003311289-ROSS-003311290
Weissman v. Weener, 12 F.3d 84	366+7(1)	Under guarantee, creditor is permitted to seek recourse against guarantor; guarantor would then be subrogated to rights of creditor.	"Under guarantee, is a creditor permitted to seek recourse against guarantor and then be subrogated to the rights of a creditor?"	043962.docx	LEGALEASE-00121207-LEGALEASE-00121208
In re XTI Xonix Techs. Inc., 156 B.R. 821	366+7(1)	Under Oregon law, guarantor has right of subrogation which permits him to be substituted to the position of the creditor whom he has paid.	Does a guarantor have the right of subrogation which permits him to be substituted to the position of the creditor whom he has paid?	043972.docx	LEGALEASE-00121238-LEGALEASE-00121239
Hicks v. Londre, 107 P.3d 1009	366+1	Equitable subrogation is a highly favored doctrine and has been given liberal application.	Is equitable subrogation a highly favored doctrine and has been given liberal application?	Subrogation - Memo # 671 - C - SU.docx	ROSS-003295390-ROSS-003295391
In re Clothes, 40 B.R. 997	366+7(1)	Under commercial law rules, the guarantor, on payment, steps into the creditor's shoes.	"Under commercial law rules, does the guarantor, on payment, step into the creditor's shoes?"	Subrogation - Memo # 688 - C - SA.docx	ROSS-003324554-ROSS-003324555
In re Kuehn, 563 F.3d 289	113+1	Under Wisconsin common law, property rights may arise from custom and usage.	Can property rights arise under common law by custom or usage?	Customs & Usage - Memo 26 - TH.docx	ROSS-003326049-ROSS-003326050

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Hallco Texas v. McMullen Cty., 221 S.W.3d 50	148+307(2)	The extent of the governmental intrusion may be a question for the trier of fact, but whether the facts constitute a taking is a question of law. U.S.C.A. Const.Amend. 5; Vernon's Ann.Texas Const. Art. 1, S 17.	Is the ultimate question of whether the facts constitute a taking a question of fact?	017453.docx	LEGALEASE-00122164- LEGALEASE-00122165
Roberts v. State, 2001 OK CR 14	203+527	Murder is a result-of-conduct offense, which requires that the culpable mental state relate to the result of the conduct, i.e., the causing of the death.	Is murder a result of conduct offense?	019341.docx	LEGALEASE-00122462- LEGALEASE-00122463
In re Agent Orange Prod. Liab. Litig., 373 F. Supp. 2d 7	221+111	A corporation is not immune from civil legal action based on international law.	Is a corporation immune from civil legal action based on international law?	020107.docx	LEGALEASE-00122460- LEGALEASE-00122461
Gevinson v. Manhattan Const. Co. of Okl., 420 S.W.2d 486	289+425	A single individual or entity cannot be owner of a partnership, though he or it could become the owner of what might have theretofore been property which belonged to such.	Can a single individual be an owner of a partnership?	Partnership - Memo 108 - RK.docx	ROSS-003296482
Kelley v. McNamee, 164 F. 369	260+99(2)	A mining partnership, unlike an ordinary one, is not dissolved by the sale of the interest of one of the partners; but whether the retiring partner is liable for indebtedness of the partnership subsequently incurred depends on the facts of the case. As to employes who continue in the employment after the change, without knowledge thereof, his liability continues, but not for subsequent wages, if they know of the transfer.	How is a mining partnership different from that of an ordinary partnership?	021832.docx	LEGALEASE-00122493- LEGALEASE-00122495
Billan v. Hercklebrath, 23 Ind. 71	95+341	An answer of entire or partial failure of consideration must set out the facts showing the failure.	Should an answer of a total or partial failure of consideration set out the facts showing the failure?	022919.docx	LEGALEASE-00121912- LEGALEASE-00121913
Smith v. Bentson, 127 Cal. App. Supp. 789	302+192(3)	Common counts, though mainly conclusions of law, are not subject to either general or special demurrer.	Are common counts subject to special or general demurrer?	022933.docx	LEGALEASE-00122154- LEGALEASE-00122156
Moya v. Northrup, 10 Cal. App. 3d 276	42+5	A pleading which is sufficient as a common count is not generally subject to general demurrer or to special demurrer on ground of uncertainty. West's Ann.Code Civ.Proc. SS 430, subds. 6, 8, 472d.	Are common counts subject to special or general demurrer?	Pleading - Memo 131 - RMM.docx	ROSS-003300681-ROSS- 003300683
Torgerson v. Minneapolis, St. P. & S.S.M. Ry. Co., 49 N.D. 1096	302+214(4)	Demurrer does not necessarily admit the inferences or conclusions drawn from the facts alleged in the complaint.	Does a demurrer admit the inferences or conclusions from the facts alleged in the complaint?	022936.docx	LEGALEASE-00122208- LEGALEASE-00122209
Schafer v. RMS Realty, 138 Ohio App. 3d 244	307A+3	Denial of motion in limine is within sound discretion of trial judge.	Is a denial of motion in limine within the sound discretion of trial judge?	Pretrial Procedure - Memo # 159 - C - CRB.docx	ROSS-003326355-ROSS- 003326356
Huckaby v. A.G. Perry & Son, 20 S.W.3d 194	307A+3	The trial court has authority to make a pretrial ruling on the admissibility of evidence.	Does the trial court have authority to make a pretrial ruling on the admissibility of evidence?	Pretrial Procedure - Memo # 171 - C - CRB.docx	ROSS-003297097-ROSS- 003297098
Armstrong Remodeling & Const. v. Cardenas, 2012 Ark. App. 387	307A+3	When a motion in limine is made, the proponent of the evidence has the burden of showing that the evidence is admissible.	"When a motion in limine is made, does the proponent of the evidence have the burden of showing that the evidence is admissible?"	Pretrial Procedure - Memo # 393 - C - NE.docx	ROSS-003284917-ROSS- 003284918
Peed v. Peed, 72 N.C. App. 549	307A+3	Power to grant a motion in limine is within the discretion of the trial court.	Does the power to grant a motion in limine lie within the sound discretion of the trial court?	028047.docx	LEGALEASE-00122088- LEGALEASE-00122089
Konieczny v. Kamin Builders, 304 Ill. App. 3d 131	307A+3	It is within the discretion of the trial judge to grant or deny a motion in limine.	Is it within the discretion of the trial judge to grant or deny a motion in limine?	Pretrial Procedure - Memo # 253 - C - PB.docx	LEGALEASE-00012245- LEGALEASE-00012246

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Union Elec. Co. v. Illinois Commerce Comm'n, 39 Ill. 2d 386	190+6	Order of Commerce Commission which purported to modify and amend a certificate of convenience and necessity previously granted to electric company to furnish natural gas service in certain area, which reduced that area and granted a certificate of convenience and necessity to another utility to serve major part of area previously allocated to electric company, constituted a modification or rescission of electric company's certificate which was governed by statute relating to modification of decisions and orders, rather than the type of alteration or modification contemplated by statute providing that certificates of public convenience and necessity may be altered or modified by the Commission upon its own motion or upon application by person or corporation affected. S.H.A. ch. 1112/323, SS 56, 71.	Is an opportunity to be heard provided under the Public Utilities Act?	042188.docx	LEGALEASE-00121794- LEGALEASE-00121796
City of Oakland v. Key Sys., 64 Cal. App. 2d 427	317A+181	In proceeding in quo warranto brought by city, through port commission, to determine authority of defendant public utilities to exercise certain franchises and privileges upon an area of tidelands within territorial limits of city, superior court could enter binding judgment if the Railroad Commission should not assume jurisdiction upon a related question germane to the operation of the utility company. Gen.Laws Act 6386; Const. art. 12, SS 22, 23.	Are the powers of the Railroad Commission unlimited?	042200.docx	LEGALEASE-00122056- LEGALEASE-00122057
Chrysler First Bus. Credit Corp. v. Kawa, 914 P.2d 540	366+7(1)	Sureties have right of subrogation to creditor's position when debt goes into default.	Do sureties have the right of subrogation to a creditor's position when debt goes into default?	Subrogation - Memo # 734 - C - SU.docx	ROSS-003312152-ROSS- 003312153
In re Big Idea Prods., 372 B.R. 388	366+7(1)	Under Texas law, a surety who pays a creditor of the principal is subrogated to all of the rights that creditor has to collect the debt from the principal.	Is a surety who pays a creditor of the principal subrogated to all of the rights that creditor has to collect the debt from the principal?	Subrogation - Memo # 740 - C - SU.docx	ROSS-003324625-ROSS- 003324627
In re Tomlin, 280 B.R. 374	366+7(1)	Upon payment of debt by guarantor, guarantor steps into shoes of initial creditor and is subrogated to rights of initial creditor; there is no new debt to guarantor, but shifting of original debt from creditor to guarantor.	"Once the guarantor pays a creditor, does he step into the shoes of the debtor whose debt he has paid and acquire that debtor's rights with respect to the obligation he has satisfied?"	044208.docx	LEGALEASE-00122119- LEGALEASE-00122120
Murphy v. Aero-Med, Ltd., 345 F. Supp. 2d 40	241+199(1)	Issue of when a cause of action accrues for limitations purposes is a question of fact which, ordinarily, must be decided by a trier of fact.	Is the issue of when and to whom a cause of action accrues a question of fact?	Action - Memo # 134 - C - CS.docx	ROSS-003284607-ROSS- 003284609
Washington Metro. Area Transit Auth. v. Ragonese, 617 F.2d 828	13+61	Action to enforce right to damages does not accrue until entitlement to payment is established.	Does an action to enforce a right to damages accrue before entitlement to payment is established?	Action - Memo # 136 - C - CS.docx	ROSS-003298853-ROSS- 003298854
Sec. Bank & Tr. Co. v. Larkin, Hoffman, Daly & Lindgren, Ltd., 897 N.W.2d 821	13+61	A cause of action "accrues" when all of the elements of the action have occurred, such that the cause of action could be brought and would survive a motion to dismiss for failure to state a claim.	When does general right of action accrue?	Action - Memo # 144 - C - CS.docx	ROSS-003310267-ROSS- 003310268
Seymour v. Richardson, 194 Va. 709	13+1	A "cause of action" accrues to a person when that person first comes to a right to bring action and consists of act or omission constituting violation of duty but differs from a "right of action" which is the right to bring suit.	"Does a ""cause of action"" accrue to a person when that person first comes to a right to bring action?"	005582.docx	LEGALEASE-00123917- LEGALEASE-00123918

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Gen. Motors Acceptance Corp. v. Howard, 487 S.W.2d 708	13+61	The accrual of a cause of action is not negated by showing that it may be subject to defeat on the merits by an affirmative defense.	Is the accrual of a cause of action negated by showing that it may be subject to defeat on the merits by an affirmative defense?	005620.docx	LEGALEASE-00124013- LEGALEASE-00124014
In re Bounds, 495 B.R. 725	13+61	Under Texas law, when act setting injury in motion is itself a completed wrong, such as an invasion of some personal or property right of plaintiff, the act and legal injury occur simultaneously, and cause of action "accrues" from time that act is committed, even though little, if any, actual damage occurs immediately upon commission of act.	Does a cause of action accrue when damages are sustained even if at the time that the act is done it is apparent that injury will inevitably result?	Action - Memo # 32 - C - LK.docx	ROSS-003282650-ROSS- 003282651
Sec. Bank & Tr. Co. v. Larkin, Hoffman, Daly & Lindgren, Ltd., 897 N.W.2d 821	13+61	Minnesota adheres to the rule requiring some damage to occur for a cause of action to accrue.	Does any rule require some damage to occur for a cause of action to accrue?	Action - Memo # 48 - C - LK.docx	ROSS-003296420-ROSS- 003296421
Lapham v. Stewart, 137 Idaho 582	241+55(3)	"Objectively ascertainable damage" standard for accrual of malpractice cause of action is not limited to medical malpractice cases, but applies to all types of professional malpractice. I.C. S 5-219, subd. 4.	Does any rule require some damage to occur for a cause of action to accrue?	005840.docx	LEGALEASE-00123205- LEGALEASE-00123206
Kanon v. Methodist Hosp., 9 S.W.3d 365	241+43	Generally, a cause of action accrues when a wrongful act causes an injury, regardless of when the plaintiff learns of the injury.	Does a cause of action accrue when a wrongful act causes an injury?	005850.docx	LEGALEASE-00123275- LEGALEASE-00123276
Diamond v. Davis, 680 A.2d 364	241+199(1)	What constitutes accrual of cause of action is question of law; however, when accrual actually occurred in particular case is question of fact.	Does deciding what constitutes accrual of a cause of action entailing statutory construction present an issue of law?	006488.docx	LEGALEASE-00123423- LEGALEASE-00123424
Klopstock v. Superior Court in & for City & Cty. of San Francisco, 17 Cal. 2d 13	302+248(2)	The test in determining whether pleading can be amended is not whether under technical rules of pleading a new cause of action is introduced, but whether attempt is made to state facts which give rise to a wholly distinct and different legal obligation against defendant, and the power to permit amendment will be denied only if a change is made in the liability sought to be enforced against the defendant. Code Civ.Proc. S 473.	Is a cause of action an obligation the plaintiff seeks to enforce against the defendant?	006496.docx	LEGALEASE-00123492- LEGALEASE-00123493
Moses v. CashCall, 781 F.3d 63	25T+121	Where Congress's intent to preclude waiver of judicial remedies for statutory rights at issue can be deduced, the court of first impression has discretion to decide whether to withhold arbitration. 9 U.S.C.A. S 1 et seq.	Do courts have discretion to decide whether to withhold arbitration?	Alternative Dispute Resolution - Memo 397 - RK.docx	ROSS-003285071-ROSS- 003285072
United States v. Ganim, 510 F.3d 134	63+1(1)	Like extortion, the crime of bribery requires a quid pro quo.	Does the crime of bribery require a quid pro quo like extortion?	011018.docx	LEGALEASE-00122588- LEGALEASE-00122589
Corbin-Dykes Elec. Co. v. Burr, 18 Ariz. App. 101	113+1	"Custom" or "usage" is defined as an habitual or customary practice, more or less widespread, which prevails within a geographical or sociological area; usage is a course of conduct based on a series of actual occurrences.	How is custom or usage defined?	Customs & Usage - Memo 25 - TH.docx	ROSS-003300490-ROSS- 003300491
Res. Investments v. United States, 85 Fed. Cl. 447	148+2.1	Nature and extent of permitted development under regulatory regime vis-a-vis the development sought by claimant may shape claimant's legitimate investment-backed expectations, for purposes of applying Penn Central test for partial regulatory takings. U.S.C.A. Const.Amend. 5.	What factors shape reasonable expectation under the takings law?	017463.docx	LEGALEASE-00122637- LEGALEASE-00122638

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Bd. of Regents of Univ. of Houston Sys. v. FKM P'ship, Ltd., 178 S.W.3d 1	148+166	Like other civil cases, an eminent domain proceeding is subject to the rules of civil procedure.	Are eminent domain proceedings subject to the rules of civil procedure?	017469.docx	LEGALEASE-00122736-LEGALEASE-00122737
Yousuf v. Samantar, 552 F.3d 371	221+151	Head-of-state immunity is premised on the concept that a state and its ruler are one for purposes of immunity.	Is head-of-state immunity premised on the concept that a state and its ruler are one for purposes of immunity?	019741.docx	LEGALEASE-00123828-LEGALEASE-00123829
Lafontant v. Aristide, 844 F. Supp. 128	221+151	Head-of-state immunity is premised on concept that state and its ruler are one for purposes of immunity.	Is head-of-state immunity premised on the concept that a state and its ruler are one for purposes of immunity?	International Law - Memo 577 - TH.docx	ROSS-003289013-ROSS-003289014
John Mohr & Sons v. Vacudyne Corp., 354 F. Supp. 1113	221+324	The Acts of Congress do not and are not intended to operate beyond the limits of the United States.	Are the acts of congress intended to operate beyond the limits of the United States?	International Law - Memo # 182 - C - PHS.docx	ROSS-003298421-ROSS-003298422
United States v. Roberts, 1 F. Supp. 2d 601	221+138	The "high seas" encompasses that part of the ocean which is beyond the territorial sea of any country.	Does the term high seas encompass the part of the ocean which is beyond the territorial sea of any country?	International Law - Memo # 190 - C - PHS.docx	ROSS-003325060-ROSS-003325061
Hernandez v. United States, 757 F.3d 249	221+392	De jure sovereignty is not the only relevant consideration in determining the geographic reach of the Constitution; the Court of Appeals' inquiry involves the selective application of constitutional limitations abroad, requiring the Court to balance the potential of such application against countervailing government interests.	Is de jure sovereignty the only relevant consideration in determining the geographic reach of a Constitution?	International Law - Memo # 811 - C - ANC.docx	ROSS-003324883-ROSS-003324886
Mayer v. Clark, 40 Ala. 259	289+714	A partnership creditor has no lien on partnership property which he can enforce at law, except by obtaining judgment and execution thereon; and it seems that in equity he has no lien.	Do partnership creditors have a lien upon the partnership property?	Partnership - Memo 174 - BP.docx	ROSS-003287465-ROSS-003287466
EZ Green Assocs. v. Georgia-Pac. Corp., 331 Ga. App. 183	115+176	Trial court did not abuse its discretion by granting grass seed system licensee's motion in limine to exclude licensor's proposed calculation method for proving lost profits, as they were not based on any actual track record of sales as required by Georgia law; licensor's argument that its track record of sales was "tainted" by licensee's misconduct did not exempt it from requirement that it must prove its damages to a reasonable degree of certainty.	Is admission or exclusion of evidence within the sound discretion of the trial court and how should the court exercise its power while granting of a motion in limine excluding evidence?	024043.docx	LEGALEASE-00122898-LEGALEASE-00122899
Gary v. Heritage Nat. Healthplan Servs., 485 N.W.2d 851	30+3194	District court has wide discretion in its rulings on pretrial deadlines and will be reversed only for abuse of such discretion.	Does District court have wide discretion in its rulings on pretrial deadlines?	024048.docx	LEGALEASE-00122927-LEGALEASE-00122928
Duran v. Hyundai Motor Am., 271 S.W.3d 178	307A+3	A motion in limine should not be used to "choke off" a party's entire claim or defense.	"Should a motion in limine be used to ""choke off"" a party's entire claim or defense?"	028633.docx	LEGALEASE-00122831-LEGALEASE-00122832
Moonan v. Louisiana Med. Mut. Ins. Co., 202 So. 3d 529	307A+3	A motion in limine presents an evidentiary matter that is subject to the great discretion of the trial court.	Does the trial court have great discretion in its consideration of motions in limine?	Pretrial Procedure - Memo # 287 - C - CRB.docx	ROSS-003281810-ROSS-003281812
S.C. Dep't of Transp. v. McDonald's Corp., 375 S.C. 90	30+78(1)	Ruling on motion in limine is generally not considered a final order on the admissibility of evidence and, for that reason, is not immediately appealable.	Is a ruling on a motion in limine a final order?	Pretrial Procedure - Memo # 60 - C - VA.docx	ROSS-003326335-ROSS-003326336
Ball v. Rao, 48 S.W.3d 332	307A+3	Repeated violations of limine orders may result in mistrials or reversals.	May repeated violations of limine orders result in mistrials or reversals?	Pretrial Procedure - Memo # 62 - C - VA.docx	ROSS-003301267-ROSS-003301268

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Petraski v. Thedos, 382 Ill. App. 3d 22	307A+3	Whether a motion in limine should be granted is subject to the trial court's discretion.	Is the question of whether a motion in limine should be granted subject to the trial court's discretion?	Pretrial Procedure - Memo # 381 - C - SSB.docx	ROSS-003282829-ROSS-003282830
Pac. Tel. & Tel. Co. v. Eshleman, 166 Cal. 640	317A+102	Under Const. art. 12, SS 22, 23, Legislature held authorized, subject only to the federal Constitution, to confer on the Railroad Commission any power cognate and germane to the subject of public utilities.	Are the powers conferred on the Railroad commission cognate and germane to the purposes for which it was created?	Public Utilities - Memo 121 - AM.docx	LEGALEASE-00013996-LEGALEASE-00013998
Pac. Bell v. Pub. Utilities Comm'n, 79 Cal. App. 4th 269	317A+119.1	A tariff, when approved by the Public Utilities Commission (PUC), has the force of law. West's Ann.Cal.Pub.Util.Code S 489(a).	Does a tariff approved by the Public Utilities Commission (PUC) have the force of law?	042250.docx	LEGALEASE-00123520-LEGALEASE-00123521
Bozman v. Bozman, 146 Md. App. 183	13+61	Cause of action is said to have arisen when facts exist to support each element.	Is a cause of action said to have arisen when facts exist to support each element?	Action - Memo # 223 - C - NO.docx	ROSS-003324275-ROSS-003324276
Harig v. Johns-Manville Prod. Corp., 284 Md. 70	241+95(5)	A cause of action for latent diseases, whether framed in terms of negligence or strict liability, accrues when plaintiff discovers, or through exercise of reasonable care and diligence should have discovered, the nature and cause of his disability or impairment. Code, Courts and Judicial Proceedings, S 5-101.	Does cause of action accrue when plaintiff ascertains or should have ascertained nature and cause of injury?	005393.docx	LEGALEASE-00124771-LEGALEASE-00124772
PaineWebber v. Fowler, 791 F. Supp. 821	25T+134(5)	Agreements to arbitrate issues exclusively in a particular forum are enforceable as a matter of contract law.	Is an agreement to arbitrate issues in a particular forum enforceable?	007177.docx	LEGALEASE-00125572-LEGALEASE-00125573
United States v. Pomrenke, 198 F. Supp. 3d 648	63+1(1)	To convict a defendant of bribery, the defendant must have engaged in a quid pro quo. 18 U.S.C.A. S 201(b).	Should the defendant be engaged in quid pro quo to be convicted for bribery?	011005.docx	LEGALEASE-00125402-LEGALEASE-00125403
Mendenhall v. City of Indianapolis, 717 N.E.2d 1218	148+307(2)	Ordinarily, the question of whether a particular interference with private property is substantial, and thus constitutes a taking by inverse condemnation, is a question of fact for the fact-finder.	"Is the question of whether a particular interference is substantial a question of fact for the fact-finder, according to the taking law?"	017544.docx	LEGALEASE-00125419-LEGALEASE-00125420
Allied Bank Int'l v. Banco Credito Agricola de Cartago, 566 F. Supp. 1440	221+342	The act of state doctrine, which is designed to avoid judicial action which impinges upon foreign relations of United States, ultimately derives from separation of powers provided in Constitution.	Does the act of state doctrine ultimately derive from the separation of powers provided in the Constitution?	019829.docx	LEGALEASE-00124796-LEGALEASE-00124797
El-Hadad v. Embassy of United Arab Emirates, 69 F. Supp. 2d 69	221+342	Act of State doctrine applies only when the actions of the foreign state occur within that foreign state.	Does the Act of State doctrine apply only when the actions of the foreign state occur within that foreign state?	International Law - Memo # 296 - C - KA.docx	ROSS-003328452-ROSS-003328454
Nat'l Coal. Gov't of Union of Burma v. Unocal, 176 F.R.D. 329	221+342	It is only when officials having sovereign authority act in official capacity that act of state doctrine applies.	Is it only when officials having sovereign authority act in official capacity that the act of state doctrine applies?	International Law - Memo # 417 - C - MLS.docx	ROSS-003284497-ROSS-003284498
Torricon v. Int'l Bus. Machines Corp., 213 F. Supp. 2d 390	221+395	Congress has the authority to regulate the conduct of U.S. employers outside the territorial jurisdiction of the United States; nevertheless, courts will presume that Congress has not exercised this power, i.e., that statutes apply only to acts performed within United States territory, unless Congress manifests an intent to reach acts performed outside United States territory. Restatement (Third) of Foreign Relations Law of the United States S 402(2).	"The act of state doctrine is premised on the principle that [e]very sovereign state is bound to respect the independence of every other sovereign state, and the courts of one country will not sit in judgment on the acts of the government of another, done within its own territory?"	International Law - Memo # 806 - C - ANC.docx	LEGALEASE-00014665-LEGALEASE-00014666

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In re Int'l Admin. Servs., 211 B.R. 88	221+321	If interest of one country in controversy is greater, other country should consider deferring jurisdiction to the first, though each has concurrent jurisdiction. Restatement (Third) of Foreign Relations S 403.	"If the interest of one country in controversy is greater, should another country consider deferring jurisdiction to the first?"	020644.docx	LEGALEASE-00125113-LEGALEASE-00125114
Estate of Domingo v. Republic of the Philippines, 694 F. Supp. 782	221+151	Purpose of head of state immunity is to avoid disruption of foreign relations.	Is the purpose of head of state immunity to avoid disruption of foreign relations?	International Law - Memo # 827 - C - ANC.docx	ROSS-003295513-ROSS-003295514
United States v. Sum of \$70,990,605, 4 F. Supp. 3d 189	221+387	Party invoking the act of state doctrine bears the burden to prove its applicability.	Does the party invoking the act of state doctrine have the burden of establishing factual predicate for doctrine's applicability?	International Law - Memo 475 - TH.docx	ROSS-003328981-ROSS-003328983
Lafontant v. Aristide, 844 F. Supp. 128	221+151	Visiting head-of-state is generally immune from jurisdiction of foreign state's courts.	Is a visiting head-of-state generally immune from the jurisdiction of a foreign state's courts?	020871.docx	LEGALEASE-00124859-LEGALEASE-00124860
Wells v. Gillette, 620 So.2d 301	307A+1	Orderly disposition of each case and docket and avoidance of surprise are inherent in theory of pretrial procedure.	Is avoidance of surprise inherent in theory of pretrial procedure?	031338.docx	LEGALEASE-00125357-LEGALEASE-00125358
Gunter v. Murphy's Lounge, 141 Idaho 16	30+3209	The appellate court reviews the trial court's decision to grant or deny a motion in limine under an abuse of discretion standard.	Are the trial courts vested with broad discretion when ruling on a motion in limine?	Pretrial Procedure - Memo # 829 - C - KA.docx	ROSS-003325385-ROSS-003325386
Fed. Armored Serv. v. Pub. Serv. Comm'n, 204 Mich. App. 24	317A+169.1	Decision of Public Service Commission (PSC) is unlawful when it involves erroneous interpretation or application of the law and unreasonable when it is unsupported by evidence. M.C.L.A. S 462.26(8).	When is a decision of the Public Service Commission (PSC)?	042302.docx	LEGALEASE-00125487-LEGALEASE-00125488
Zurich Am. Ins. Co. v. S.-Owners Ins. Co., 248 F. Supp. 3d 1268	366+27	Under Florida law, conventional subrogation arises or flows from a contract between the parties establishing an agreement that the party paying the debt will have the rights and remedies of the original creditor.	Does subrogation generally arise contractually?	044286.docx	LEGALEASE-00124678-LEGALEASE-00124679
N. Utilities Div. of K N Energy v. Town of Evansville, 822 P.2d 829	366+1	Since causes of action for damage or injury to persons and property survive and are assignable, they can be subject of claim for conventional subrogation. W.S.1977, S 1-4-101.	Is the assignment of a cause of action for personal injury subject to a subrogation claim?	Subrogation - Memo 1022 - C- CAT.docx	ROSS-003311317-ROSS-003311318
State, By & Through Healy v. Smither, 290 Or. 827	366+38	Subrogee's rights rise no higher than the rights of the subrogor, and person against whom claim is made may assert, as a defense to subrogation claim, any defenses available against the subrogor.	Does a subrogee stand in the shoes of the subrogor and have no better rights than possessed by the latter?	044372.docx	LEGALEASE-00125521-LEGALEASE-00125522
Dade Cty. Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638	366+1	Doctrine of equitable subrogation is not created by a contract, but by the legal consequences of the acts and relationships of the parties.	Does legal or equitable subrogation arise from the legal consequences of the acts of the parties?	Subrogation - Memo 990 - C- CAT.docx	LEGALEASE-00015494-LEGALEASE-00015495
Nationwide Mut. Fire Ins. Co. v. T & N Master Builder & Renovators, 2011 IL App (2d) 101143	366+1	As an action in equity, a claim may be subrogated only in order to prevent injustice or unjust enrichment and will not be maintained when it would be inequitable to do so.	Will subrogation be allowed where it would be inequitable?	044430.docx	LEGALEASE-00125339-LEGALEASE-00125340
Aiken Bag Corp. v. McLeod, 89 Ga. App. 737	8.30E+76	A check is a mere order upon a bank to pay from the drawer's account and is subject to revocation by drawer at any time before it has been certified, accepted, or paid by the bank. Code, S 14-1707.	Can a check be revoked at anytime by the drawer?	009503.docx	LEGALEASE-00125612-LEGALEASE-00125613
Royston v. Pima Cty., 106 Ariz. 249	79+1	Judiciary has power to supervise operation of office of clerk of superior court. A.R.S. S 11-401; A.R.S.Const. art. 3; art. 6, S 23.	Does the judiciary has the power to supervise the operation of the office of Clerk of the Superior Court?	Clerks of court - Memo 16- VP.docx	ROSS-003286473-ROSS-003286474

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State ex rel. Smith v. Culliver, 186 Ohio App. 3d 534	79+1	The office of clerk of courts is an office separate and distinct from that of judge of the common pleas court.	Is an office of clerk of courts separate and distinct from that of judge of the common pleas court?	Clerks of court - Memo 5-VP.docx	ROSS-003303567
Barrett v. State, 965 So. 2d 1260	79+67	The court clerk is a ministerial officer of the court and has no authority to contest the validity of a court's order issued in the performance of its judicial function.	Is a clerk of the court a ministerial officer?	013521.docx	LEGALEASE-00125686- LEGALEASE-00125687
Chaney v. State, 314 S.W.3d 561	203+527	Murder, whether intentionally or knowingly committed, is a result oriented offense; therefore, the full statutory definitions of intentional and knowing do not apply, and the State must establish that the defendant intended the result of death or that he was aware that his conduct was reasonably certain to cause that result. V.T.C.A., Penal Code SS 6.03, 19.02(b)(1).	Is intentionally or knowingly committed murder considered a result oriented offense?	019361.docx	LEGALEASE-00125628- LEGALEASE-00125629
People v. Butler, 187 Cal. App. 4th 998	203+662	Involuntary manslaughter is a lesser offense of murder, distinguished by its mens rea. West's Ann.Cal.Penal Code SS 187, 192.	Is involuntary manslaughter considered to be a lesser offense of murder distinguished by its mens rea?	019376.docx	LEGALEASE-00125737- LEGALEASE-00125738
Foster v. Shubert Holding Co., 316 Mass. 470	29T+972(3)	The general allegation that a combination and agreement are unlawful is insufficient, as a matter of pleading, to state a cause of action in tort. G.L.(Ter.Ed.) c. 93, S 2 (M.G.L.A.).	Is an allegation that the combination was unlawful and illegal sufficient to state a claim?	023005.docx	LEGALEASE-00125608- LEGALEASE-00125609
Caverno v. Fellows, 286 Mass. 440	302+16	Great detail in pleading well-known torts or infringement of legal rights is not required.	Is great detail required in pleading well known torts or infringement of legal rights?	Pleading - Memo 168 - RMM.docx	ROSS-003290228-ROSS- 003290229
In re Cent. Illinois Energy Coop., 561 B.R. 699	268+742(4)	Under Illinois law, a statutory immunity from suit or liability is an affirmative defense that must be pleaded and proved by the party seeking its protection.	What is a statutory immunity from suit or liability?	006727.docx	LEGALEASE-00125794- LEGALEASE-00125795
Jones v. Boswell, 250 S.W.3d 140	386+6	Trespass to chattel is the wrongful interference with the use or possession of another's property.	Is wrongful interference with the use or possession of another's property considered trespass to chattel?	047185.docx	LEGALEASE-00125788- LEGALEASE-00125789
Farrell by Lehner v. John Deere Co., 151 Wis. 2d 45	386+6	Individual using personal property without owner's permission is trespasser as to owner of property.	Is an individual who uses personal property without the owner's permission a trespasser?	047261.docx	LEGALEASE-00125856- LEGALEASE-00125857
King v. Phillips, 94 N.C. 555	13+61	An action cannot be maintained on a new promise to pay a debt secured by a bond while the bond is in force.	Can an action be maintained on a new promise to pay a debt secured by a bond while the bond is in force?	Action - Memo # 130 - C - SB.docx	ROSS-003286425
Rector v. Mississippi State Highway Comm'n, 623 So. 2d 975	241+6(1)	For purposes of amendment to statute of repose reducing period after acceptance of improvements to real property in which suits may be filed for injuries arising from defective design or construction from ten years to six years and providing that amendment applies only to causes of action "accruing" after January 1, 1986, term "accruing" refers to date marking action which begins period of prescription; thus, enactment of amendment did not bar all actions based on injuries occurring after January 1, 1986, if acceptance of work occurred prior to January 1, 1980, which would have eliminated then existing exposure for work accepted between January 1, 1976 and December 31, 1979; cause of action accrued from acceptance for purposes of statute of repose. Code 1972, S 15-1-41.	Is the time when a cause of action arises distinguished from when prescription begins to run?	006466.docx	LEGALEASE-00126183- LEGALEASE-00126184

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Harrison v. Dir. of Dep't of Corr., 194 Mich. App. 446	13+61	Cause of action "arises," for determining whether amended statute applies, when plaintiff's claim accrues, not when it is filed.	Does a cause of action arise when the plaintiff's claim accrues or when it is filed?	Action - Memorandum - 275 - SK.docx	ROSS-003299376-ROSS-003299377
Hart v. Guardian Tr. Co., 75 N.E.2d 570	13+61	A cause of action accrues at the moment of a wrong, default, or delict by the defendant and injury to the plaintiff, except in those cases where an act may not be legally injurious until subsequent events occur.	Does a cause of action accrue at the moment of a wrong?	Action- memo # - PC332.docx	ROSS-003284962-ROSS-003284963
Lamar v. State, 603 So. 2d 1113	63+1(1)	Material element of crime of bribery is defendant's intent at time he attempted to bribe witness. Code 1975, S 13A-10-121.	Is corrupt intent at the time of the offense a material element of the crime of bribery?	Bribery - Memo # 38 - C-NA.docx	ROSS-003286646-ROSS-003286648
Shelden v. United States, 34 Fed. Cl. 355	148+303	To provide for full value of property taken, just compensation under Fifth Amendment includes interest on property, expenses and fees. U.S.C.A. Const.Amend. 5.	"Does just compensation include interest on the property, expenses and fees?"	Eminent Domain - Memo 262 - GP.docx	ROSS-003303607-ROSS-003303608
Estate of Domingo v. Republic of the Philippines, 694 F. Supp. 782	221+151	Purpose of head of state immunity is to avoid disruption of foreign relations.	Is the purpose of the head of state immunity to avoid disruption of foreign relations?	020654.docx	LEGALEASE-00126159-LEGALEASE-00126160
Kirk v. Ford Motor Co., 141 Idaho 697	307A+3	When presented with a motion in limine, a trial court has the authority to deny the motion and wait until trial to determine if the evidence should or should not be excluded.	Can the trial court deny the motion in limine?	037928.docx	LEGALEASE-00126086-LEGALEASE-00126087
Ball v. Rao, 48 S.W.3d 332	307A+3	Repeated violations of limine orders may result in mistrials or reversals.	May repeated violations of a courts in limine orders result in mistrials or reversals?	038039.docx	LEGALEASE-00126161-LEGALEASE-00126162
Weadon v. Shahren, 50 Cal. App. 2d 254	13+63	The doctrine of "laches" is based on knowledge of facts and acquiescence in them to the damage of the other party.	Is the doctrine of laches based on knowledge of facts and acquiescence in them to the damage of the other party?	005406.docx	LEGALEASE-00126726-LEGALEASE-00126727
Philadelphia, B. & W. R. Co. to Use of Pennsylvania R. Co. v. Quaker City Flour Mills Co., 282 Pa. 362	13+61	Cause of action accrues at moment party has legal right to sue.	Can a cause of action accrue at moment party has legal right to sue?	Action - Memo # - C 316-TJ.docx	ROSS-003284784-ROSS-003284785
Hood v. Slappey, 601 So. 2d 981	13+61	Cause of action accrues when act complained of results in injury to plaintiff.	Does cause of action accrue when act complained of results in injury to plaintiff?	Action - Memo # 251 - C - SPB.docx	ROSS-003285749-ROSS-003285750
Gorod v. Tabachnick, 428 Mass. 1001	79+67	Clerks and registers, whether elected or appointed, are ministerial officers of court when it comes to receiving and filing papers, and in the absence of an order from a judge, they may not refuse to accept a notice of appeal, even if they believe that no appeal is available or that notice is untimely or otherwise defective.	Are clerks of courts ministerial officers?	013462.docx	LEGALEASE-00126788-LEGALEASE-00126789
Barrett v. State, 965 So. 2d 1260	79+67	The court clerk is a ministerial officer of the court and has no authority to contest the validity of a court's order issued in the performance of its judicial function.	Is a clerk a ministerial officer of the court?	013469.docx	LEGALEASE-00126792-LEGALEASE-00126793
Barker v. Francis, 741 P.2d 548	322H+644	Closing date alone in contract for sale or exchange of land does not make time of the essence.	Does a closing date in a contract make time of the essence?	018356.docx	LEGALEASE-00126493-LEGALEASE-00126494
In re Refined Petroleum Prod. Antitrust Litig., 649 F. Supp. 2d 572	221+342	Act of state doctrine may be applied only to acts that are (1) governmental acts (2) undertaken by a recognized sovereign (3) within its own territory.	Does the act of state doctrine apply only to actions of a nation within its territory?	020291.docx	LEGALEASE-00126387-LEGALEASE-00126388

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Evans v. Herbranson, 241 Iowa 268	302+8(12)	Allegations of waiver, estoppel, acquiescence, absence of right and the like, standing alone, were mere legal conclusions, and pleaded no defense unless based upon well-pleaded sustaining facts.	Are allegations of waiver conclusions?	023054.docx	LEGALEASE-00126706-LEGALEASE-00126707
Hofler v. Hill, 311 N.C. 325	366+7(1)	Cosureties, or equal obligors, on a debt may not be subrogated to the rights of the creditor against each other but are limited to a just and ratable contribution. G.S. S 26-5.	"Can co-sureties, or equal obligors, on a debt be subrogated to the rights of the creditor against each other?"	Subrogation - Memo # 690 - C - SA.docx	ROSS-003326846-ROSS-003326847
Dennis' Lessee v. Kelso, 28 Md. 333	13+63	Courts will not encourage laches, vigilantibus et non dormientibus leges subveniunt.	"Will courts encourage laches, vigilantibus et non dormientibus leges subveniunt?"	006232.docx	LEGALEASE-00127179-LEGALEASE-00127180
Soto v. State Indus. Prod., 642 F.3d 67	25T+134(3)	Spanish-speaking employee's consent to arbitrate was not in error, and was not void, due to her lack of fluency in English and thus her inability to fully understand contents of agreements that she had signed; although employee never received copy of one document, onus was on her to obtain and read copy before signing it. 31 L.P.R.A. S 3404.	Does lack of fluency in English void a partys consent to an agreement?	007237.docx	LEGALEASE-00127231-LEGALEASE-00127232
Tompkins Printing Equip. Co. v. Almik, 725 F. Supp. 918	363+3	Document cannot become, by stipulation of parties, negotiable instrument; document may be negotiable instrument only if it meets requirements listed in Uniform Commercial Code. U.C.C. SS 3-101 et seq., 3-104, 3-104(1)(d), 3-202(3).	Is it necessary for an instrument to meet the requirements listed in the Uniform Commercial Code in order to qualify as a negotiable instrument?	009038.docx	LEGALEASE-00127048-LEGALEASE-00127049
Wyland v. W. Shore Sch. Dist., 52 A.3d 572	1.41E+30	A court generally should not interfere with a school district's discretion regarding educational policy; nonetheless, a school district does not have the discretion to disregard a statutory mandate.	Can courts interfere with a school district's discretion regarding school policy?	Education - Memo # 20 - C - SU.docx	ROSS-003326972-ROSS-003326973
In re Am. Freight Sys., 179 B.R. 952	148+81.1	Protection afforded by Fifth Amendment taking clause applies to vested property rights. U.S.C.A. Const.Amend. 5.	Does the protection afforded by the Fifth Amendment apply to vested property rights?	Eminent Domain - Memo 295 - GP.docx	ROSS-003298595
United Employer Ben. Corp. v. Dep't of Ins. & Fin. of State of Or., 133 Or. App. 477	148+2.2	Mere threat to take action on the occurrence of some uncertain future event is not "taking" under either State or Federal Constitution. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 18.	Is mere threat to take action on the occurrence of some uncertain future event a taking?	Eminent Domain - Memo 298 - GP.docx	ROSS-003286569-ROSS-003286570
Liberty Mut. Ins. Co. v. Whitehouse, 868 F. Supp. 425	148+2.1	In order to establish violation of taking clause, one must demonstrate both that property was taken and that no provision was made for awarding just compensation. U.S.C.A. Const.Amend. 5.	What must be demonstrated to establish a violation of just compensation provision?	Eminent Domain - Memo 301 - GP.docx	ROSS-003285126-ROSS-003285128
U.S. Fire Ins. Co. v. Corporacion Insular De Seguros, 853 F. Supp. 47	148+2.1	Determination of whether government action constitutes taking under Fifth Amendment is made on case by case basis. U.S.C.A. Const.Amend. 5, 14.	How is the determination whether government action constitutes a taking is made under the law?	Eminent Domain - Memo 309 - GP.docx	ROSS-003300023-ROSS-003300024
Montgomery v. Hall, 229 Or. 428	302+8(11)	Bare allegation of ownership unaccompanied with supporting facts is generally deemed purely conclusion of law and not averment of fact.	Is an allegation of ownership a conclusion of law?	023076.docx	LEGALEASE-00127030-LEGALEASE-00127031
Watson v. City of E. Point, 223 Ga. 185	302+8(11)	An allegation that a party is the owner of specified land is an allegation of an ultimate fact and not a conclusion of law.	"Is the allegation that a party is the owner of a specified land, an allegation of ultimate fact?"	023082.docx	LEGALEASE-00127042-LEGALEASE-00127043
Montgomery v. Hall, 229 Or. 428	302+8(11)	Bare allegation of ownership unaccompanied with supporting facts is generally deemed purely conclusion of law and not averment of fact.	Is the allegation of ownership a conclusion of law?	Pleading - Memo 209 - RMM.docx	ROSS-003300303-ROSS-003300304
Foster v. Rowland, 194 Ga. 845	302+8(11)	Allegation that a party is owner of specified realty is an allegation of an "ultimate fact" and not a "conclusion of law". Code, S 33-117.	Is the allegation of ownership of specified realty an ultimate fact or a conclusion of law?	023093.docx	LEGALEASE-00127164-LEGALEASE-00127165

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Foster v. Rowland, 194 Ga. 845	302+8(11)	Allegation that a party is owner of specified realty is an allegation of an "ultimate fact" and not a "conclusion of law". Code, S 33-117.	Is the allegation of ownership of specified realty an ultimate fact or conclusion of law?	023095.docx	LEGALEASE-00127160-LEGALEASE-00127161
In re Guardianship of Spinnie, 2016 IL App (5th) 150564	308+79(5)	The mere existence of a fiduciary relationship between a principal and an agent prohibits the agent from seeking or obtaining any selfish benefit for herself, and if the agent does so, the transaction is presumed to be fraudulent.	Can an Agent use the Power of Attorney for his own benefit?	041834.docx	LEGALEASE-00126907-LEGALEASE-00126908
Cody Gas Co. v. Pub. Serv. Comm'n of Wyoming, 748 P.2d 1144	317A+145.1	Public Service Commissions have power to grant blanket or area certificates to public utilities.	Does the Public Service Commission (PSC) have the power to grant blanket or area certificates?	042438.docx	LEGALEASE-00127070-LEGALEASE-00127071
In re Apple & AT & TM Antitrust Litig., 596 F. Supp. 2d 1288	386+7	Under California law, common law trespass lies where an intentional interference with the possession of personal property has proximately caused injury; consent can be limited by its scope, however, and creates a privilege to enter only in so far as a condition or restriction is complied with.	What privilege does a restricted consent create in a trespass action?	047306.docx	LEGALEASE-00127022-LEGALEASE-00127023
Shamrock Coal Co. v. Maricle, 5 S.W.3d 130	413+1	The General Assembly is free to limit the application of workers' compensation benefits.	Is the General Assembly free to limit the application of workers compensation benefits?	048164.docx	LEGALEASE-00126942-LEGALEASE-00126943
Gormley v. Panuzio, 166 Conn. 1	13+65	In mandamus, factual situation existing at time writ is to issue governs.	"In mandamus, does the factual situation existing at the time of the writ is to issue govern?"	Action - Memo # 658 - C - TM.docx	ROSS-003285767-ROSS-003285768
Canal Auth. of State of Fla. v. Callaway, 489 F.2d 567	212+1563	Preliminary injunction is an extraordinary and drastic remedy which should not be granted unless the movant clearly carries burden of persuasion.	When should the extraordinary remedy of injunction be granted?	005898.docx	LEGALEASE-00127600-LEGALEASE-00127601
Taggart v. W. Maryland R. Co., 24 Md. 563	13+63	Lapse of time, not amounting to the bar of limitations, is not a defense to an action at law.	"Is a lapse of time, not amounting to the bar of limitations, a defense to an action at law?"	006039.docx	LEGALEASE-00127352-LEGALEASE-00127353
Perona v. Stark, 114 Ariz. 570	13+65	Judgment must be supported by facts as they existed at time of commencement of action.	Must a judgment be supported by facts as they existed at the time of the commencement of an action?	Action - Memo # 761 - C - TJ.docx	ROSS-003289906-ROSS-003289907
Parr v. First State Bank of San Diego, 307 S.W.2d 309	13+65	Courts do not decide cases when nothing is left to litigate at the time of hearing.	Do courts decide cases when nothing is left to litigate at the time of hearing?	006079.docx	LEGALEASE-00127788-LEGALEASE-00127789
Hammon v. Wichita Cty., 290 S.W.2d 545	13+65	Generally right to equitable relief must be determined as such right may or may not exist at the time of the hearing.	Will the right to equitable relief exist at the time of hearing?	006204.docx	LEGALEASE-00127522-LEGALEASE-00127523
Leonard v. Medlang, 264 N.W.2d 481	13+65	In equitable actions, relief will be awarded as warranted by circumstances existing at time of the award.	"In equitable actions, should relief be awarded as warranted by circumstances existing at time of the award?"	Action - Memo # 861 - C - PC.docx	ROSS-003303423-ROSS-003303424
Coleman v. Coleman, 1 A.D.3d 833	13+24	At common law an equitable defense could not be interposed to an action at law, and judgment was given as a matter of course against a defendant having only an equitable defense.	Are equitable defenses available to a law action?	006273.docx	LEGALEASE-00127923-LEGALEASE-00127924
Mastrobuono v. Lange, 241 A.D. 770	13+65	Equity will give relief as exigencies of case demand at close of trial.	Will equity give relief as exigencies of the case demand at the close of trial?	Action - Memo # 893 - C - VA.docx	ROSS-003325373-ROSS-003325376
Citizens' Nat. Bank of Netcong v. John Wills, 130 N.J.L. 201	13+65	In actions at law, the rights of the parties are generally determined as of the time of beginning of the action.	"In actions at law, are the rights of the parties generally determined as of the time of beginning of the action?"	006317.docx	LEGALEASE-00128096-LEGALEASE-00128098
Blair v. Scott Specialty Gases, 283 F.3d 595	25T+134(2)	When both parties have agreed to be bound by arbitration, adequate consideration exists, and the arbitration agreement should be enforced.	Do courts presume that adequate consideration exists when both parties agreed to be bound by arbitration?	007203.docx	LEGALEASE-00127378-LEGALEASE-00127379

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Sydnor v. Conseco Fin. Servicing Corp., 252 F.3d 302	25T+134(6)	Party seeking to avoid arbitration on grounds that costs and fees made arbitration agreement unconscionable must prove that arbitration would be prohibitively expensive.	Can a party avoid arbitration by proving that arbitration would be prohibitively expensive?	007215.docx	LEGALEASE-00127406-LEGALEASE-00127407
Jeter v. Ellenville Cent. Sch. Dist., 50 A.D.2d 366	1.41E+30	Education is a matter of interest and concern for the state and is subject to the control of the legislature.	Is education a matter of interest and concern for the state and subject to the control of the legislature?	016881.docx	LEGALEASE-00127469-LEGALEASE-00127471
State ex rel. Douglas v. Faith Baptist Church of Louisville, 207 Neb. 802	141E+919	State always has a legitimate concern for maintaining minimum standards in all schools it allows to operate.	Does a state have a legitimate concern in requiring minimum standards in all of its schools?	016886.docx	LEGALEASE-00127500-LEGALEASE-00127501
Ratigan v. Davis, 175 Neb. 416	1.41E+30	Legislature has complete power over organization, function, and finances of school district.	"Does legislature have complete power over organization, function, and finances of school district?"	Education - Memo # 42 - C - SU.docx	ROSS-003286522-ROSS-003286523
Divisich v. Marshall, 281 N.Y. 170	1.41E+30	It is public policy of state that public education shall be beyond control by municipalities and politics.	Has the policy of a state been to place public education beyond the control of municipality?	016900.docx	LEGALEASE-00127612-LEGALEASE-00127614
Reg'l High Sch. Dist. No. 3 v. Town of Newtown, 134 Conn. 613	1.41E+30	The state, in legislating concerning education, is exercising its broad, sovereign power.	"Is a state, in legislating concerning education, exercising its broad, sovereign power?"	Education - Memo # 47 - C - SU.docx	ROSS-003285085-ROSS-003285087
Samaad v. City of Dallas, 940 F.2d 925	148+277	A "takings" claim is not ripe until claimant has unsuccessfully sought compensation from the state; short of that, it must be certain that the state would deny the claimant compensation were he to undertake the obviously futile act of seeking it. U.S.C.A. Const.Amend. 5.	Is a takings claim ripe until the claimant has unsuccessfully sought compensation from the state?	017706.docx	LEGALEASE-00127668-LEGALEASE-00127670
Middleoak Ins. Co. v. Tri-State Sprinkler Corp., 77 Mass. App. Ct. 336	366+35	A property owner's waiver of subrogation for losses covered by property insurance results not just if a contract requires the owner to provide property insurance postconstruction, but also if the owner secures coverage for the property after final payment.	Does an owner's waiver of subrogation rights if the owner secures coverage for the property?	Subrogation - Memo # 1137 - C - TJ.docx	ROSS-003286994-ROSS-003286995
Lopez v. Concord Gen. Mut. Ins. Grp., 155 Vt. 320	366+35	Waiver of subrogation right will be found only where subrogated party has specifically and unequivocally relinquished that right.	Will a waiver of subrogation right be found only where subrogated party has specifically and unequivocally relinquished that right?	Subrogation - Memo # 1140 - C - TJ.docx	ROSS-003286303-ROSS-003286304
In re Monaco, 514 B.R. 477	366+41(6)	Under Texas law, the party seeking to establish a right to equitable subrogation bears the burden of proof to show that the right exists.	Does the person seeking subrogation have the burden of showing right thereto?	043424.docx	LEGALEASE-00127718-LEGALEASE-00127719
Jindra v. Diederich Flooring, 181 Wis. 2d 579	366+41(6)	Right to subrogation is not automatic but, rather, party seeking to apply subrogation has burden of proving right to subrogation. (Per Day, J., with two Justices concurring and two Justices concurring in result.)	Does a party seeking to apply subrogation have the burden of proving the right to subrogation?	Subrogation - Memo # 1230 - C - CK.docx	ROSS-003330833-ROSS-003330834
Nat'l Shawmut Bank of Boston v. New Amsterdam Cas. Co., 290 F. Supp. 664	366+35	Express language should be used to extinguish a right as venerable and well-known as that of subrogation.	Should express language be used to extinguish a right as venerable and well-known as that of subrogation?	Subrogation - Memo # 1274 - C - SKG.docx	ROSS-003286369-ROSS-003286370
Vogel v. Hochhalter, 516 N.W.2d 214	413+1	Workers' compensation system requires insurers to fulfill compensation obligations incurred by insured employers. M.S.A. S 176.001.	Does the workers compensation system require insurers to fulfill compensation obligations incurred by insured employers?	048528.docx	LEGALEASE-00127362-LEGALEASE-00127363
Teater v. Good Hope Dev. Corp., 14 Cal. 2d 196	335+8(4)	The right to immediate and exclusive possession of the property at time of commencement of action is a prerequisite to maintenance of replevin, and existence of preliminary act or condition precedent to be performed precludes maintenance of the action.	Will an after-acquired interest support replevin?	006008.docx	LEGALEASE-00128375-LEGALEASE-00128376

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Phifer v. Mut. Ben. Health & Acc. Ass'n, 24 Tenn. App. 600	302+277	Suits are to be tried with reference to conditions obtaining at time the action is commenced, and subsequent events cannot be considered unless presented by supplemental pleading.	Are suits to be tried with reference to conditions obtaining at the time the action is commenced?	Action - Memo # 795 - C - KBM.docx	ROSS-003289921-ROSS-003289922
Adams v. California Mut. Bldg. & Loan Ass'n, 18 Cal. 2d 487	13+63	Where delay in commencing action is induced by defendant's conduct, the delay cannot be availed of by defendant as a defense.	"Where delay in commencing an action is induced by a defendant's conduct, can the delay be availed of by a defendant as a defense?"	Action - Memo # 796 - C - UG.docx	LEGALEASE-00018026-LEGALEASE-00018027
Jennings v. High Farms Corp., 35 Misc. 2d 80	13+65	In action for interference with peaceable possession, right to judgment depends on facts as they stood when action was commenced, and not as they stand at date of trial and what defendants may or may not do after service of summons will in no way tend to render ineffectual the judgment for damages.	"In an action at law, does the right to judgment depend on facts as they stood when the action was commenced?"	Action - Memo # 798 - C - UG.docx	LEGALEASE-00018030-LEGALEASE-00018031
Goldblatt v. City of Chicago, 30 Ill. App. 2d 211	13+65	A case is determined on law as it stands when judgment is rendered and not when suit was brought.	Is a case determined by the law as it stands when judgment is rendered and not when the suit was brought?	006151.docx	LEGALEASE-00128512-LEGALEASE-00128513
Poole v. Rourke, 779 F. Supp. 1546	34+2	Department of Defense regulations control when they conflict with regulations promulgated by Air Force.	Do Department of Defense regulations control when they conflict with regulations promulgated by the Air Force?	Armed Forces - Memo 45 - RK.docx	ROSS-003312599-ROSS-003312600
Silverthorne v. Laird, 460 F.2d 1175	34+2	Once the Army promulgates regulations, it is bound to follow them, and when it applies them in an arbitrary manner, the courts have power to review.	Do the courts have power to review if the army applies regulations in an arbitrary manner?	008357.docx	LEGALEASE-00128638-LEGALEASE-00128639
Iacono v. Lyons, 6 S.W.3d 715	30+347(1)	When a nonsuit is filed after a partial judgment has been signed, the judgment does not become final for appeal until the trial court signs either an order granting the nonsuit or a final judgment explicitly memorializing the nonsuit. Vernon's Ann.Texas Rules Civ.Proc., Rule 329b; Rules App.Proc., Rule 26.1.	Does a party have an absolute right to file a nonsuit?	038792.docx	LEGALEASE-00128275-LEGALEASE-00128277
Luster v. Luster, 128 Conn. App. 259	307A+501	The right of a plaintiff to withdraw his action before a hearing on the merits is absolute and unconditional. C.G.S.A. S 52-80.	Is the right of a plaintiff to withdraw his action before a hearing on the merits absolute and unconditional?	038832.docx	LEGALEASE-00128293-LEGALEASE-00128294
Ethicon Endo-Surgery v. Gillies, 343 S.W.3d 205	307A+501	The party requesting a non-suit has an absolute right to a non-suit at the moment the motion is filed. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	Does the party requesting a non-suit have an absolute right to a non-suit at the moment the motion is filed?	Pretrial Procedure - Memo # 950 - C - SK.docx	ROSS-003285261-ROSS-003285262
Temple v. Mary Washington Hosp., 288 Va. 134	307A+501	The right to take a nonsuit is a powerful tactical weapon in the hands of a plaintiff. West's V.C.A. S 8.01-380.	Is the right to take a nonsuit a powerful tactical weapon in the hands of a plaintiff?	Pretrial Procedure - Memo # 960 - C - TJ.docx	ROSS-003330727-ROSS-003330728
Winchester Homes v. Osmose Wood Preserving, 37 F.3d 1053	307A+517.1	Under Virginia law, party may nonsuit either cause of action, claim, or party, and nonsuit does not operate as bar to subsequent suit between same parties on same cause of action.	"Can a party nonsuit a cause of action, a claim, or a party?"	Pretrial Procedure - Memo # 971 - C - KBM.docx	ROSS-003285270-ROSS-003285272
Iacono v. Lyons, 6 S.W.3d 715	30+347(1)	When a nonsuit is filed after a partial judgment has been signed, the judgment does not become final for appeal until the trial court signs either an order granting the nonsuit or a final judgment explicitly memorializing the nonsuit. Vernon's Ann.Texas Rules Civ.Proc., Rule 329b; Rules App.Proc., Rule 26.1.	Does the party requesting a nonsuit have an absolute right to a nonsuit at the moment the motion is filed with the clerk?	039254.docx	LEGALEASE-00128381-LEGALEASE-00128382
Palmer v. State, 140 So. 3d 448	211+1658	An indictment that alleges sexual battery of a child is not required to claim that the sexual penetration occurred without the victim's consent. West's A.M.C. S 97-3-95(1)(c).	Does penetration without consent constitute sexual battery?	Sex Offence - Memo 59 - SB.docx	LEGALEASE-00018343-LEGALEASE-00018344
Stanford v. Aulick, 124 Ariz. 487	366+7(1)	A surety is entitled to be subrogated to position of mortgagee when he is compelled to pay debt.	Is a surety entitled to be subrogated to the position of a mortgagee when he is compelled to pay debt?	Subrogation - Memo # 1072 - C - KG.docx	ROSS-003298821-ROSS-003298822

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Cunningham v. Metro. Life Ins. Co., 116 Wis. 2d 331	366+41(6)	Party seeking to prove subrogation has burden of introducing evidence to that effect.	Does the party seeking to prove subrogation have the burden of introducing evidence to that effect?	Subrogation - Memo # 1084 - C - KG.docx	ROSS-003300432-ROSS-003300434
In re Rebel Rents, 307 B.R. 171	366+38	Like other equitable remedies, right to subrogation may be lost by waiver, laches, or estoppel.	"Can a right to subrogation be lost by waiver, laches, or estoppel?"	043279.docx	LEGALEASE-00128479-LEGALEASE-00128482
McGlohon v. Ogden, 251 Ga. 625	217+3519(1)	Statutory provision that insurer of plaintiff seeking recovery from tort-feasor shall be subrogated to the rights of plaintiff to extent of benefits provided is self-executing; i.e., no agreement between insured and insurer is required to effectuate the right of subrogation. O.C.G.A. S 33-34-3(d).	Is subrogation self-executing?	Subrogation - Memo # 1092 - C - VP.docx	ROSS-003286817-ROSS-003286819
W. Am. Ins. Co. v. Cates, 865 N.E.2d 1016	217+3522	The insurer's right to subrogation may be waived, or the insurer may be estopped from asserting it, due to the insurer's unreasonable delay in satisfying its obligation under the policy.	Can the right to subrogation be waived?	Subrogation - Memo # 1110 - C - ES.docx	ROSS-003300237-ROSS-003300238
Webber v. Frye, 199 Iowa 448	366+35	Right of subrogation may be lost by inexcusable negligence on part of person asserting it.	Can the right of subrogation be lost by inexcusable negligence on part of a person asserting it?	Subrogation - Memo # 1116 - C - ES.docx	ROSS-003327303-ROSS-003327304
In re Berg, 387 B.R. 524	366+35	Under Illinois law, conventional subrogation will be applied even when the record shows a release of the satisfied encumbrance.	Can conventional subrogation be applied even if there is a release of the satisfied encumbrance?	043408.docx	LEGALEASE-00128310-LEGALEASE-00128311
Minnesota Min. & Mfg. Co. v. Plymouth Rubber Co., 178 F. Supp. 591	13+65	The existence of a cause of action is to be tested as of time of filing of complaint and no recovery may be had if no cause be shown to exist at that time.	Is a cause of action to be tested as of the time of filing of a complaint?	Action - Memo # 778 - C - VP.docx	LEGALEASE-00018523-LEGALEASE-00018524
Jewett v. Commonwealth Bond Corp., 241 A.D. 131	13+65	Court of equity will determine measure of relief from situation adduced at trial.	Will a court of equity determine the measure of relief from the situation adduced at trial?	Action - Memo # 833 - C - VA.docx	ROSS-003286459-ROSS-003286460
Int'l Talent Grp. v. Copyright Mgmt., 629 F. Supp. 587	25T+137	Arbitration clause covering claims "relating to" contract is broader than cause covering claims "arising out of" contract.	Is an arbitration clause covering claims relating to a contract broader than a clause covering claims arising out of a contract?	Alternative Dispute Resolution - Memo 475 - RK.docx	ROSS-003300424-ROSS-003300425
Summit Bank v. The Creative Cook, 730 S.W.2d 343	8.30E+273	Agreement to extend time of payment of a negotiable instrument or execution of a renewal note constitutes a new contract between the parties.	Does the renewal of a note require execution of a new contract?	009347.docx	LEGALEASE-00128999-LEGALEASE-00129000
In re Cmty. Sch. Dist. of Malvern, Mills Cty., 250 Iowa 1240	1.41E+13	Establishment and reorganization of school districts is within the scope of the legislative power.	Is establishment and reorganization of school districts within the scope of the legislative power?	Education - Memo # 62 - C - SU.docx	ROSS-003300244-ROSS-003300245
Howell v. Harvey, 5 Ark. 270	289+924	To enable one partner to dissolve partnership at will, the renunciation must be made in good faith and not at an unreasonable time.	Does the power to dissolve a partnership at will have to be exercised in good faith?	022010.docx	LEGALEASE-00128935-LEGALEASE-00128937
McCollum v. McCollum, 67 S.W.2d 1055	289+605	Where dissolution of partnership constitutes breach of contract, there may be suit for damages, but power to dissolve partnership cannot be denied.	"If the dissolution of a partnership constitutes a breach of contract, can there be a suit for damages for the breach?"	Partnership - Memo 229 - RK.docx	ROSS-003287337-ROSS-003287338
Williams v. Obstfeld, 314 F.3d 1270	226H+3	Under Florida law, a joint venture is a form of partnership, and both types of entities are generally governed by the same rules of law.	Are joint ventures and partnerships governed by the same law?	022022.docx	LEGALEASE-00128948-LEGALEASE-00128949
Schroeder v. Schroeder, 223 Neb. 684	307A+501	Collateral consequences, such as subjection to further litigation, do not interfere with one's right of dismissal.	"Do collateral consequences, such as subjection to further litigation, interfere with one's right of dismissal?"	Pretrial Proceedure - Memo # 1144 - C - TJ.docx	ROSS-003288397-ROSS-003288398

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Papania v. Aetna Cas. & Sur. Co., 291 So. 2d 908	366+35	A necessary prerequisite to an impairment of subrogation rights is establishment of responsibility for damages.	Is the establishment of responsibility for damages a necessary prerequisite to an impairment of subrogation rights?	Subrogation - Memo # 1247 - C - AP.docx	ROSS-003301152-ROSS-003301153
Jindra v. Diederich Flooring, 181 Wis. 2d 579	366+41(6)	Party requesting subrogation has burden of proving that there is some basis for asserting subrogation, and that subrogation should be allowed in those circumstances. (Per Day, J., with two Justices concurring and two Justices concurring in result.)	Does a party requesting subrogation have burden of proving that there is a basis for asserting subrogation?	043530.docx	LEGALEASE-00128823-LEGALEASE-00128824
Clark v. Sanders, 267 Ala. 674	401+5.1	"Subject matter" within statute to the effect that if real estate be subject matter of suit, whether it be exclusive subject matter or not, bill in equity may be filed in county where same, or material portion thereof, is situated, means nature of cause of action and of relief sought. Code 1940, Tit. 7, S 294.	Does subject matter refer to the nature of the cause of action and the nature of the relief sought?	Venue - Memo 103 - RK.docx	LEGALEASE-00018772-LEGALEASE-00018773
Combined Commc'ns Corp. v. Pub. Serv. Co. of Colorado, 865 P.2d 893	401+5.1	Suit to obtain money judgment against utility is not one that affects its property or operations for purposes of venue rule. Rules Civ.Proc., Rule 98(a).	Do suits to obtain a money judgement against a utility come under the mandatory venue statute?	Venue - Memo 109 - RK.docx	ROSS-003302016-ROSS-003302017
Paul Revere Variable Annuity Ins. Co. v. Kirschhofer, 226 F.3d 15	25T+138	Tenet of contra proferentem may be employed in construing ambiguities in arbitration agreements against drafters.	Do courts use the tenet of contra proferentem in construing ambiguities in arbitration agreements?	Alternative Dispute Resolution - Memo 493 - JK.docx	ROSS-003300441-ROSS-003300442
State Roads Comm'n of Md. v. Smith, 224 Md. 537	30+9	A reservation of points or questions for consideration by court in banc is substitute for appeal to Court of Appeals.	Is a reservation of points or questions for consideration by a court in banc a substitute for appeal to the Court of Appeals?	008179.docx	LEGALEASE-00129061-LEGALEASE-00129062
Buckner v. Greenwood, 6 Ark. 200	83E+417	A bill or note payable to bearer passes by delivery, so as to vest the legal interest in the holder, and authorize him to sue upon it in his own name.	Is the legal interest in a promissory note transferable?	Bills and Notes - Memo 162 - RK.docx	LEGALEASE-00018950-LEGALEASE-00018951
Singh v. Uber Techs. Inc., 235 F. Supp. 3d 656	25T+140	A delegation provision in an arbitration agreement is severable from the underlying agreement to arbitrate, and if a plaintiff chooses to challenge the delegation provision, it must do so specifically.	Can a delegation provision be severed from the rest of the arbitration agreement?	Alternative Dispute Resolution - Memo 500 - RK.docx	ROSS-003285570-ROSS-003285572
Harris v. Ferris, 18 Fla. 81	30+14(1)	The dismissal of an appeal or writ of error for want of prosecution does not bar a second proceeding.	Does the dismissal of an appeal or writ of error for want of prosecution bar a second proceeding?	008236.docx	LEGALEASE-00129434-LEGALEASE-00129435
In re Hanley's Estate, 23 Cal. 2d 120	30+21	Jurisdiction cannot be conferred upon appellate courts by consent or stipulation of parties, estoppel or waiver. Code Civ.Proc. S 939; Probate Code, S 1233.	"Can Appellate jurisdiction be conferred by agreement, waiver, or estoppel? "	Appeal and error - Memo 69 - RK.docx	LEGALEASE-00019045-LEGALEASE-00019046
In re Mason's Estate, 194 Misc. 308	8.30E+76	A check is a mere order for payment of money and authority of payee as agent of maker is revoked by death of maker prior to time check is cashed.	Can a holder present his claim against the maker's estate after the maker's death?	Bills and Notes - Memo 164 - RK.docx	LEGALEASE-00019080-LEGALEASE-00019081
In re James B., 109 Cal. App. 4th 862	67+9(0.5)	Neither forced entry in the usual sense of the word nor use of burglar tools are elements of automobile burglary. West's Ann.Cal.Penal Code S 459.	Is forced entry an element of auto burglary?	013218.docx	LEGALEASE-00129639-LEGALEASE-00129640
People v. McDonald, 4 Ill. App. 3d 62	67+2	Gist of offense of burglary is not amount involved but is unlawful entry of premises of another with intent to commit a felony or a theft within.	What is the gist of burglary?	Burglary - Memo 58 - RK.docx	ROSS-003287444-ROSS-003287446

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Crooks v. Maynard, 112 Idaho 312	79+6	Constitutional provision, which prohibits district court clerk from appointing deputies and assistants unless authorized by county commissioners, does not give commissioners power to override every hiring decision with respect to clerk of district court and does not permit commissioners to refuse hiring of needed deputy or clerical assistant. Const. Art. 18, S 6.	Can clerks of the district court appoint deputy clerks?	Clerks of court - Memo 105 - RK.docx	ROSS-003300720-ROSS-003300721
McIntyre v. Seminole Cty. Sch. Bd., 779 So. 2d 639	141E+560	A teacher or contractual employee who can only be terminated for cause has a contractual property interest in his job.	Does a teacher or a contractual employee who can only be terminated for cause have a contractual property interest in his job?	Education - Memo # 86 - C- NA.docx	ROSS-003285882-ROSS-003285883
Neusted v. Skernswell, 69 Cal. App. 2d 361	302+8(11)	Allegation in complaint seeking to establish a trust in real property and for partition and sale thereof that defendant holds the property "as trust" was a naked conclusion of the pleader.	"Is an allegation that the defendant holds the property as Trust, a naked conclusion of the pleader?"	023116.docx	LEGALEASE-00129317-LEGALEASE-00129318
Zumbrun v. Univ. of S. California, 25 Cal. App. 3d 1	302+214(5)	Allegations of damages without allegations of fact to support them are but conclusions of law, which are not admitted by demurrer.	"Are allegations of damages without allegations of fact to support them, admitted by demurrer?"	023118.docx	LEGALEASE-00129338-LEGALEASE-00129339
Aison v. Hudson River Black River Regulating Dist., 279 A.D.2d 754	307A+501	Party should not be permitted to discontinue an action for the purpose of circumventing an order of the court. McKinney's CPLR 3217.	Can a party be permitted to discontinue an action for the purpose of circumventing an order of the court?	Pre-trial Procedure - Memo # 1045 - C - KG.docx	ROSS-003286016-ROSS-003286017
DuBray v. Warner Bros. Records, 236 A.D.2d 312	307A+501	Motion for discontinuance should not be used to circumvent order of court or to enable plaintiffs to do indirectly what they are not permitted to do directly.	Can a party be permitted to discontinue an action for the purpose of circumventing an order of the court?	024893.docx	LEGALEASE-00129291-LEGALEASE-00129292
State ex rel. Butte-Los Angeles Mining Co. v. Dist. Court of Second Judicial Dist., 103 Mont. 140	307A+501	Plaintiff has no absolute right at all times under all circumstances to discontinue, dismiss, or take a nonsuit.	"Do a plaintiff has an absolute right to discontinue, dismiss, or take a nonsuit?"	Pre-trial Procedure - Memo # 1053 - C - KG.docx	ROSS-003286022-ROSS-003286023
Cape Oil Co. v. Williams, 427 S.W.2d 122	307A+501	Defendant cannot force plaintiff to prosecute its cause of action or continue its litigation.	Can a defendant force a plaintiff to prosecute its cause of action or continue its litigation?	Pretrial Procedure - Memo # 1270 - C - PC.docx	ROSS-003300447-ROSS-003300448
Fair Share Org. v. Kroger Co., 132 Ind. App. 160	307A+501	When a motion to dismiss is filed by plaintiff at an appropriate time, the court has no alternative but to dismiss. Burns' Ann.St. S 2-901, subd. 1.	"When a motion to dismiss is filed by a plaintiff at an appropriate time, does the court have any alternatives?"	Pretrial Procedure - Memo # 992 - C - NC.docx	ROSS-003287650-ROSS-003287651
George v. Ospalik, 299 Ill. App. 3d 888	307A+501	There is no right under statute to voluntarily dismiss action where statute allowing such dismissals conflicts with Supreme Court rules. S.H.A. 735 ILCS 5/2-1009(a).	Is there a right under statute to voluntarily dismiss an action where a statute allowing such dismissals conflicts with Supreme Court rules?	041214.docx	LEGALEASE-00129392-LEGALEASE-00129393
Ewing v. Bd. of Educ. of Cty. of Summers, 202 W. Va. 228	307A+501	Motions to dismiss are viewed with disfavor, and lower courts should rarely grant such motions.	"Are motions to dismiss viewed with disfavor, and should lower courts grant such motions only rarely?"	041216.docx	LEGALEASE-00129440-LEGALEASE-00129441
Harris v. Billings, 16 Cal. App. 4th 1396	307A+509	Right of plaintiff to voluntarily dismiss action before commencement of trial is not absolute; exceptions to right to dismiss arise generally where action has proceeded to determinative adjudication, or to decision that is tantamount to an adjudication. West's Ann.Cal.C.C.P. SS 581, 581(b), (b)(1, 2).	Is a right of a plaintiff to voluntarily dismiss action before commencement of trial not absolute?	Pretrial Proceedure - Memo # 1136 - C - TJ.docx	ROSS-003315324-ROSS-003315325

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Bd. of Trustees of City of Delray Beach Police & Firefighters Ret. Sys. v. Citigroup Glob. Markets, 622 F.3d 1335	25T+141	Party that has not signed an arbitration agreement may be compelled to arbitrate, if signatory executed arbitration agreement as its agent.	Can a party who has not signed an arbitration agreement be compelled to arbitrate if a signatory executes an arbitration agreement as agent of that party?	Alternative Dispute Resolution - Memo 506 - RK.docx	ROSS-003300653-ROSS-003300654
Hamilton Life Ins. Co. of New York v. Republic Nat. Life Ins. Co., 408 F.2d 606	25T+141	There is no impediment to enforcing agreement to arbitrate as between two parties in dispute involving multiparty agreement. 9 U.S.C.A. SS 2, 4.	Is there any impediment to enforcing an agreement to arbitrate between two parties in a dispute involving a multi-party agreement?	Alternative Dispute Resolution - Memo 516 - RK.docx	ROSS-003287003-ROSS-003287004
Marino v. Evans, 87 A.D.2d 623	79+6	Determination by chief administrator of courts of office of court administration that position of senior court clerk was not so technical as to require that those considered to be in direct line of promotion be limited to petitioners and those similarly situated supported decision to offer promotion to position to others and was not an abuse of discretion.	Are changes to promotional opportunities allowed?	013384.docx	LEGALEASE-00130191-LEGALEASE-00130192
Bolin v. San Bernardino City Unified Sch. Dist., 155 Cal. App. 3d 759	316P+222	Teacher's expectation of being assigned to particular school on basis of seniority is not protected right.	Is the expectation of being assigned to a particular school on the basis of seniority a protected right?	Education - Memo # 93 - C- NA.docx	ROSS-003287308-ROSS-003287309
McGuinness v. Allison Realty Co., 46 Misc. 8	302+8(13)	Where plaintiff sued for injuries caused by the falling of a building while under construction, and joined the superintendent of buildings of the city of New York and the city as defendants, allegations of the complaint setting out the duties of such superintendent and the city-they being created by statute-are not allegations of fact, but conclusions of law.	"Are allegations as to duties created by statute, conclusions of law?"	023136.docx	LEGALEASE-00129727-LEGALEASE-00129729
Irving v. Rees, 146 A.D. 703	302+214(5)	Allegation that plaintiff was next of kin of decedent, in the face of facts set forth showing the contrary, is a conclusion of law, not admitted by demurrer.	"Is an allegation that one is the next of kin of the decedent, a mere legal conclusion?"	023147.docx	LEGALEASE-00129789-LEGALEASE-00129790
Cadlo v. Owens-Illinois, 125 Cal. App. 4th 513	184+41	Each element in a cause of action for fraud or negligent misrepresentation must be factually and specifically alleged, as the policy of liberal construction of pleadings is not generally invoked to sustain a misrepresentation pleading defective in any material respect; thus, the mere assertion of reliance without specific factual allegations is insufficient.	Should a cause of action for negligent misrepresentation be specifically alleged?	Pleading - Memo 244 - RMM.docx	ROSS-003287388-ROSS-003287389
Senseley v. First Nat. Life Ins. Co., 205 La. 61	307A+501	A suit or reconventional demand may be dismissed on the voluntary motion of party maintaining such demand only with the consent of any parties to suit whose rights would be prejudiced by such dismissal. Code Prac. art. 491.	"Can a suit be dismissed if the dismissal of either of the demands, principal or in reconvention, would prejudice the rights of other parties to the suit?"	026229.docx	LEGALEASE-00129813-LEGALEASE-00129814
Gullett v. McCormick, 421 S.W.2d 352	307A+742.1	Attendance of witnesses and taking of testimony at pretrial conference is generally not approved. CR 16.	Is the attendance of witnesses and taking of testimony at pretrial conference generally approved?	Pretrial Procedure - Memo # 1409 - C - UG.docx	ROSS-003300515-ROSS-003300516
Hasenauer v. Durbin, 216 Neb. 714	307A+750	Purpose of pretrial conference is to simplify issues, to amend pleadings when necessary, and to avoid unnecessary proof of facts at trial; to that end, litigants must adhere to spirit of procedure and are bound by pretrial order to which no exception has been taken.	What is the purpose of a pretrial conference?	026550.docx	LEGALEASE-00129850-LEGALEASE-00129851

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St. James Plaza v. Notey, 166 A.D.2d 439	307A+501	Leave to discontinue cause of action should, absent special circumstances, be granted. McKinney's CPLR 3217(b).	"Should leave to discontinue a cause of action absent special circumstances, be granted?"	026598.docx	LEGALEASE-00129988-LEGALEASE-00129989
St. James Plaza v. Notey, 166 A.D.2d 439	307A+501	Leave to discontinue cause of action must be denied, where party opposing motion can demonstrate prejudice. McKinney's CPLR 3217(b).	"Must leave to discontinue a cause of action be denied, where a party opposing a motion can demonstrate prejudice?"	026600.docx	LEGALEASE-00130006-LEGALEASE-00130007
Johnson v. Toscano, 144 Conn. 582	307A+742.1	In action for personal injuries, the preparation for pretrial should include an up-to-date medical appraisal of the plaintiff's injuries and extent of his recovery.	What should be included in the preparation for pretrial in an action for personal injuries?	Pretrial Procedure - Memo # 1628 - C - NS.docx	ROSS-003286254-ROSS-003286255
Phillips v. Monroe Auto Equip. Co., 251 Neb. 585	307A+44.1	Substantive sanctions regarding discovery and other pretrial procedural matters are designed to prevent party who has failed to comply with discovery from profiting by such misconduct.	What are discovery and pretrial procedure designed to eliminate?	026715.docx	LEGALEASE-00130093-LEGALEASE-00130094
King v. Zimmerman, 266 Mont. 54	307A+743	Purpose of pretrial orders is to prevent surprise, simplify issues, and permit counsel to prepare their case for trial on basis of pretrial orders.	What is the purpose of pre-trial orders and how does it help counsels?	026738.docx	LEGALEASE-00130249-LEGALEASE-00130250
City of Costa Mesa v. McKenzie, 30 Cal. App. 3d 763	413+391	Workmen's compensation is compulsory and may not be subsidized by any contributions or exactions from employees.	Is workmens compensation compulsory and may it be subsidized by any contribution or exactions from employees?	047826.docx	LEGALEASE-00130145-LEGALEASE-00130146
Eisen v. Venulum Ltd., 244 F. Supp. 3d 324	25T+414	District Court, rather than arbitrator, would determine enforceability of arbitration clauses in investment contracts involving interests in fine wines, even though contracts included requirement that all disputes under contracts be sent to arbitration, since there was no language in contracts expressly stating that arbitrability disputes would be resolved by arbitration, contracts stated that International Chamber of Commerce (ICC) rules would control any arbitration, ICC rule provided that arbitrator determined validity of arbitration agreement if party against which claim had been made challenged its validity, but investor, who was bringing claims against foreign corporation for violations of securities laws, was challenging validity of arbitration clauses.	Does reference to International Chamber of Commerce rules in an arbitration clause present a clear and unmistakable agreement to arbitrate arbitrability?	007388.docx	LEGALEASE-00130869-LEGALEASE-00130870
Gregory v. Electro-Mech. Corp., 83 F.3d 382	25T+143	Tort claims and claims other than breach of contract are not automatically excluded from contractual arbitration clause.	Are tort and other non-contract claims automatically excluded from contractual arbitration clauses?	007390.docx	LEGALEASE-00130902-LEGALEASE-00130904
Clark v. United States, 322 F.3d 1358	34+5(2)	When National Guard members are not activated into federal service, they are not treated as federal employees.	"When National Guard members are not activated into federal service, can they be treated as federal employees?"	008436.docx	LEGALEASE-00130711-LEGALEASE-00130713

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United States v. Castillo-Morales, 507 F.3d 873	350H+793	Defendant's prior conviction under Florida's second-degree burglary statute was for "burglary of a dwelling" within meaning of sentencing guideline defining "crime of violence" warranting enhancement of sentence of a defendant convicted of illegal reentry following an aggravated-felony conviction and deportation; defendant stipulated that "a factual basis" for his plea was present in "court documents," and charging affidavit included an admission from defendant's accomplice and co-defendant, which stated he and defendant entered the residence through an unsecured kitchen window. Immigration and Nationality Act, S 276(b), 8 U.S.C.A. S 1326(b); U.S.S.G. S 2L1.2, 18 U.S.C.A.; West's F.S.A. S 810.02(1, 3).	What is a burglary of a dwelling?	Burglary - Memo 25 - RK.docx	ROSS-003300877-ROSS-003300878
United States v. Reina-Rodriguez, 468 F.3d 1147	67+2	"Burglary of a dwelling," as qualifies as crime of violence under the sentencing guidelines providing for 16-level sentencing increase for defendant convicted of illegal reentry after deportation, requires: (1) an unlawful or unprivileged entry into, or remaining in, (2) a building or structure that constitutes a dwelling, (3) with the intent to commit a crime. U.S.S.G. S 2L1.2(b)(1)(A)(ii), 18 U.S.C.A.	What is a burglary of a dwelling?	012990.docx	LEGALEASE-00131301-LEGALEASE-00131302
People v. Cunningham, 2002 WL 1065598	67+4	Purpose of residential burglary statute is to deter unlawful entry into dwellings and thereby protect privacy and sanctity of the home. Ill.Rev.Stat.1991, ch. 38, P 19-3(a).	What is the purpose of the burglary statute?	013162.docx	LEGALEASE-00131317-LEGALEASE-00131318
Tobler v. State, 371 So. 2d 1043	67+2	Forced entry into fenced area constituted one burglary and later forced entry into enclosed trailer park within area constituted a second burglary so as to warrant conviction for both offenses.	Can entering a fenced area constitute burglary?	Burglary - Memo 85 - JK.docx	ROSS-003300712-ROSS-003300713
Estep v. Commissioners of Boundary Cty., 122 Idaho 345	79+6	Constitutional provision that clerk of district court shall be empowered by county commissioners to appoint deputies and clerical assistants who shall receive compensation fixed by commissioners does not authorize commissioners to order hiring policies to govern clerk, but authorizes clerk to hire deputy clerks. Const. Art. 18, S 6.	Are county commissioners required to authorize the appointment of clerks?	013529.docx	LEGALEASE-00131260-LEGALEASE-00131261
Kicklighter v. Goodrich, 162 F. Supp. 3d 1363	170B+2385(2)	County clerk of state superior court, in her official capacity, acted as an "arm of the State" when she terminated chief deputy clerk, and thus was entitled to Eleventh Amendment immunity from deputy clerk's claim for damages under S 1983 for alleged violation of her First Amendment right to association, based on deputy clerk's allegation that she was terminated due to her marriage to a county sheriff's deputy; county clerk derived her power and duties from the State, independent of the county in which she served, and exercised her hiring and firing powers for the State. U.S. Const. Amend. 11; Ga. Const, art. IX, S 1; 42 U.S.C.A. S 1983; Ga. Code Ann. SS 15-6-50, 15-6-61, 15-6-82, 15-6-87.	Are deputy clerks of the superior court county employees?	Clerks of court - Memo 94 - RK.docx	ROSS-003287293-ROSS-003287294

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Kicklighter v. Goodrich, 162 F. Supp. 3d 1363	170B+2385(2)	County clerk of state superior court, in her official capacity, acted as an "arm of the State" when she terminated chief deputy clerk, and thus was entitled to Eleventh Amendment immunity from deputy clerk's claim for damages under S 1983 for alleged violation of her First Amendment right to association, based on deputy clerk's allegation that she was terminated due to her marriage to a county sheriff's deputy; county clerk derived her power and duties from the State, independent of the county in which she served, and exercised her hiring and firing powers for the State. U.S. Const. Amend. 11; Ga. Const, art. IX, S 1; 42 U.S.C.A. S 1983; Ga. Code Ann. SS 15-6-50, 15-6-61, 15-6-82, 15-6-87.	Are deputy clerks of the superior court county employees?	013533.docx	LEGALEASE-00131268- LEGALEASE-00131269
Turner v. N. Carolina Dep't of Transp., 223 N.C. App. 90	48A+252	Department of Transportation (DOT) is subject to a suit to recover damages for death caused by its negligence only as is provided in the Tort Claims Act. West's N.C.G.S.A. S 143-291.	Can the Department of Transportation (DOT) be held liable in tort?	018781.docx	LEGALEASE-00131189- LEGALEASE-00131190
U.S. ex rel. Batty v. Amerigroup Illinois, 528 F. Supp. 2d 861	170A+1772	On a motion to dismiss for failure to state a claim, detailed factual allegations are not necessary, but merely reciting the elements of a cause of action is insufficient. Fed.Rules Civ.Proc.Rule 12(b)(6), 28 U.S.C.A.	Is the mere recital of the elements of a cause of action insufficient?	023166.docx	LEGALEASE-00130333- LEGALEASE-00130335
Moore v. Kayport Package Exp., 885 F.2d 531	170A+636	While statements of time, place, and nature of alleged fraudulent activities are sufficient under civil rule requiring particularity in pleading circumstances of alleged fraud, mere conclusory allegations of fraud are insufficient. Fed.Rules Civ.Proc.Rule 9(b), 28 U.S.C.A.	Are conclusory allegations of fraud sufficient?	023171.docx	LEGALEASE-00130389- LEGALEASE-00130391
Peaslee v. Michalski, 167 So. 2d 242	307A+531	A "voluntary nonsuit" is one ordered against a party-plaintiff who has affirmatively sought it; an "involuntary nonsuit" is one ordered against a defaulting plaintiff who has not affirmatively sought it.	"Is a ""voluntary nonsuit"" one ordered against a party-plaintiff who has affirmatively sought it?"	Pretrial Procedure - Memo # 1224 - C - DA.docx	ROSS-003287495-ROSS-003287496
Parks v. Breedlove, 241 Ga. App. 72	307A+749.1	A pretrial order limits the issues for trial and controls the subsequent course of the action unless modified at trial to prevent manifest injustice.	Is a pre-trial order to be construed liberally to allow the consideration of all questions fairly within the ambit of contested issues?	026416.docx	LEGALEASE-00130406- LEGALEASE-00130409
Taylor v. S & M Lamp Co., 12 Cal. Rptr. 323	307A+742.1	If sufficiency of pleading is raised at pretrial conference, it should be resolved before pretrial order is signed and case set for trial.	"When should sufficiency of pleading, raised at pretrial conference be resolved?"	026655.docx	LEGALEASE-00130374- LEGALEASE-00130375
Makuakane v. Tanigawa, 50 Haw. 493	307A+747.1	Parties and attorneys cannot be held bound by provisions of an unsigned pre-trial order.	Can parties and attorneys be held bound by provisions of an unsigned pre-trial order?	026755.docx	LEGALEASE-00130291- LEGALEASE-00130292
Senseley v. First Nat. Life Ins. Co., 205 La. 61	307A+501	Plaintiff has control of a suit and the right to discontinue or dismiss it at any time except where rights of defendant are prejudiced, and as respects a reconventional demand the defendant has similar control and rights. Code Prac. art. 491.	Can a plaintiff discontinue an action against a defendant where the rights of the latter will not be prejudiced thereby?	026769.docx	LEGALEASE-00130338- LEGALEASE-00130339
Gillikin v. Pierce, 98 N.C. App. 484	307A+501	If no counterclaim is pending, or if counterclaim does not arise out of same transaction, party may voluntarily dismiss his complaint without opposing party's consent by filing notice of dismissal. Rules Civ.Proc., Rule 41(a)(1), (a)(1)(i), G.S. S 1A-1.	"Is it an error to allow the plaintiff to dismiss his own case, where no counterclaim has been interposed?"	026774.docx	LEGALEASE-00130381- LEGALEASE-00130382
Shawe v. Elting, 157 A.3d 142	307A+331	A party in litigation has an affirmative duty to preserve potentially relevant evidence.	Does a party in litigation have an affirmative duty to preserve potentially relevant evidence?	026810.docx	LEGALEASE-00130804- LEGALEASE-00130805

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Hibbert v. Ransdell, 26 P.3d 721	307A+749.1	In general, a pretrial order should supersede pleadings and control the future course of the action unless modified to prevent injustice.	Will a pre-trial order supersede the pleadings?	026934.docx	LEGALEASE-00130477-LEGALEASE-00130478
Perkins v. Carter, 09-673 (La. App. 5 Cir. 12/29/09), 30 So. 3d 862	307A+1	One of principal purposes of pretrial proceeding is to narrow issues of litigation to those which are contested and to dispense with proof on issues which are not contested. LSA-C.C.P. art. 1551.	What is the purpose of pretrial proceedings with regard to contested issues?	Pretrial Procedure - Memo # 1773 - SKG.docx	LEGALEASE-00020812-LEGALEASE-00020813
Dillard Dep't Stores v. Hall, 909 S.W.2d 491	307A+331	Unlike depositions and interrogatories, requests for document production may not be used simply to explore. Vernon's Ann.Texas Rules Civ.Proc., Rule 167.	Can requests for production of documents be used simply to explore?	Pretrial Procedure - Memo # 2080 - C - NS.docx	ROSS-003286465-ROSS-003286466
In Interest of Hill, 102 Ill. App. 3d 387	307A+717.1	Motion for continuance is insufficient where there is no showing that absence of witness would jeopardize case.	Is a motion for continuance insufficient where there is no showing that absence of witness would jeopardize case?	Pretrial Procedure - Memo # 2091 - C - NS.docx	LEGALEASE-00020994-LEGALEASE-00020995
Foster v. Texas Dept. of Pub. Safety, 443 S.W.2d 66	30+3239	Application for additional time is addressed to discretion of trial court whose ruling will not be disturbed upon appeal unless abuse of discretion is shown. Rules of Civil Procedure, rule 166-A(f).	Will an order granting or refusing the motion be disturbed on appeal?	027535.docx	LEGALEASE-00130847-LEGALEASE-00130848
Michigan Employment Sec. Comm'n v. Patt, 4 Mich. App. 228	371+2001	Essential characteristics of a "tax" are that it is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority.	Is tax a voluntary payment or donation?	Taxation - Memo # 105 - C - SU.docx	LEGALEASE-00021056-LEGALEASE-00021057
Grace v. St. Louis Cty., No. ED94746, 2011 WL 1660653	371+2001	"Taxes" are proportional contributions imposed by the state upon individuals for the support of government and for all public needs; taxes are not payments for a special privilege or a special service rendered.	Are taxes proportional contributions imposed by the state?	Taxation - Memo # 112 - C - CK.docx	ROSS-003290516-ROSS-003290517
Weisblat v. City of San Diego, 176 Cal. App. 4th 1022	371+2001	A tax is a "special tax" whenever expenditure of its revenues is limited to specific purposes; this is true even though there may be multiple specific purposes for which the revenues may be spent.	When is a tax a special tax?	Taxation - Memo # 115 - C - CK.docx	ROSS-003315348-ROSS-003315349
Okeson v. City of Seattle, 150 Wash. 2d 540	371+2002	Charges imposed by a local government for purposes other than raising money for the public treasury, such as for the regulation of an activity, are not taxes and are not subject to constitutional taxation constraints.	Is tax a charge imposed to raise money for the public treasury?	045031.docx	LEGALEASE-00130556-LEGALEASE-00130558
Pifer v. Laird, 328 F. Supp. 649	34+2	Army is entitled to first crack at interpreting its own regulations and to great deal of deference in interpretations it reaches.	Is the army entitled to a first crack at interpreting its own regulations?	008889.docx	LEGALEASE-00132403-LEGALEASE-00132404
U.S. ex rel. Hirshberg v. Cooke, 336 U.S. 210	258A+893	The statute authorizing Secretary of Navy, with approval of President, to adopt and alter regulations and orders for control of navy, could not be construed as permitting navy to extend its court-martial jurisdiction beyond limits Congress had fixed. 34 U.S.C.A. S 591.	Can naval regulations be altered only with the approval of the president?	008900.docx	LEGALEASE-00132415-LEGALEASE-00132416
Aguilar Mortega v. Dep't of Def., 520 F. Supp. 2d 1	34+3(1)	Military courts are independent of the federal courts, and are analogized to state court systems when individuals punished by court-martial seek redress in federal courts.	Are military courts independent of federal courts?	Armed Services - Memo 76 - RK.docx	ROSS-003285692-ROSS-003285693
United States v. Garrido, 713 F.3d 985	372+1014(10)	Convictions for honest services wire or mail fraud, pursuant to bribery theory, require at least an implied quid pro quo. 18 U.S.C.A. SS 1341, 1343, 1346.	"What is the definition of ""quid pro quo"" for the purpose of bribery?"	012313.docx	LEGALEASE-00132082-LEGALEASE-00132084
United States v. Mullins, 800 F.3d 866	63+1(1)	Evidence of quid pro quo is not necessary to establish that a public agent solicited corruptly anything of value in connection with a transaction of \$5,000 or more. 18 U.S.C.A. S 666(a)(1)(B).	Is the evidence of quid pro quo necessary to establish that a public agent commit corrupt solicitation under bribery statute?	012336.docx	LEGALEASE-00132087-LEGALEASE-00132088

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
McGee v. Finley, 65 So. 2d 384	302+8(15)	Heirs at law suing to annul two sales of realty by their ancestor were required, as prerequisite to introduction of parol evidence to show that signature of their ancestor was obtained by some manner of artifice or fraud, to have alleged in their petition the primary facts, and not merely conclusions, showing the fraud relied upon.	Must allegations of fraud contain facts and not mere conclusions?	023204.docx	LEGALEASE-00131719- LEGALEASE-00131720
Spudnuts v. Lane, 131 Ariz. 424	302+8(15)	Although no particular language is necessary in pleading fraud, elements constituting fraud must be found considering pleading as a whole and bare allegations that thing is "fraudulent" are insufficient to comply with rule. 16 A.R.S. Rules Civ.Proc., Rule 9(b).	Is any language necessary in pleading fraud?	023208.docx	LEGALEASE-00131945- LEGALEASE-00131946
Crist v. Goody, 31 Colo. App. 496	307A+331	Rules dealing with interrogatories, discovery, and production must be liberally construed. Rules of Civil Procedure, rule 26.	"Must rules dealing with interrogatories, discovery, and production be liberally construed?"	027273.docx	LEGALEASE-00131561- LEGALEASE-00131562
Vinlis Const. Co. v. Roreck, 19 A.D.2d 753	307A+331	Discovery and inspection must be obtained as authorized by statute and rule. Civil Practice Act, S 296 and subd. 1; Rules of Civil Practice, rule 141.	Must discovery and inspection be obtained as authorized by statute and rule?	Pretrial Procedure - Memo # 2114 - C - ES.docx	ROSS-003301579-ROSS- 003301580
Reeves v. Travelers Ins. Companies, 421 A.2d 47	307A+747.1	Ultimate sanction of dismissal of action for failure to comply with pretrial procedure should be imposed only for the most serious instances of noncompliance with pretrial procedures.	Should the ultimate sanction be imposed only for the most serious instances of noncompliance with pretrial procedures?	027442.docx	LEGALEASE-00131931- LEGALEASE-00131932
Wenrich v. Employers Mut. Ins. Companies, 35 Kan. App. 2d 582	307A+749.1	In the absence of an attempt to modify the pretrial order, such order is binding and controls the subsequent course of trial.	"Where a pretrial order was not modified, does it control a subsequent course of action?"	027473.docx	LEGALEASE-00132313- LEGALEASE-00132314
B. C. Richter Contracting Co. v. Cont'l Cas. Co., 230 Cal. App. 2d 491	307A+749.1	Pretrial orders fixed actual issues and superseded inconsistent pleadings. Cal. Rules of Court, rule 216.	Can pretrial orders fix actual issues and supersede inconsistent pleadings?	027652.docx	LEGALEASE-00132348- LEGALEASE-00132349
Harris v. Ward Greenberg Heller & Reidy LLP, 151 A.D.3d 1808	307A+517.1	When plaintiff's voluntary notice of discontinuance is timely, the action is discontinued and it is as if it had never been; everything done in the action is annulled and all orders in the case are nullified. McKinney's CPLR 3217(a).	"When an action is discontinued, is it as if it had never been?"	027755.docx	LEGALEASE-00132002- LEGALEASE-00132003
Morgan Stanley Dean Witter Commercial Fin. Servs. v. Sutula, 185 Ohio App. 3d 152	307A+517.1	When a voluntary dismissal is filed, the time-stamped date on that document is controlling, not a subsequent court entry, nor can the court's subsequent actions affect a self-executing dismissal. Rules Civ.Proc., Rule 41(A)(1)(a).	"When a voluntary dismissal is filed, is the time-stamped date on that document controlling?"	027759.docx	LEGALEASE-00132053- LEGALEASE-00132054
In re Cole, 428 B.R. 747	307A+517.1	Under Ohio law, where litigants agree to a voluntary dismissal, the action is treated as if it had never been commenced. Ohio Rules Civ.Proc., Rule 41.	"Where litigants agree to a voluntary dismissal, is the action treated as if it had never been commenced?"	Pretrial Procedure - Memo # 2327 - C - NE.docx	ROSS-003300039-ROSS- 003300040
Allied Van Lines v. Fairfield Ins. Co., 591 F. Supp. 2d 852	307A+517.1	In Louisiana, as in other jurisdictions, a voluntary dismissal is a dismissal without prejudice unless otherwise stated, as predicted by federal district court.	Is a voluntary dismissal a dismissal without prejudice unless it otherwise states?	Pretrial Procedure - Memo # 2381 - C - TM.docx	ROSS-003288231-ROSS- 003288232
Michigan State Highway Comm'n v. Redmon, 42 Mich. App. 642	307A+749.1	Counsel cannot sit idly by and then for the first time interpose objections at trial.	Can counsel sit idly by and then for the first time interpose objections at trial?	027873.docx	LEGALEASE-00132323- LEGALEASE-00132324
Kendra Oil & Gas v. Homco, Ltd., 879 F.2d 240	170A+1935.1	Pretrial order governs conduct at trial unless modified, which may be done only to prevent manifest injustice. Fed.Rules Civ.Proc.Rule 16(e), 28 U.S.C.A.	Does a pretrial order govern a conduct of trial?	027918.docx	LEGALEASE-00132296- LEGALEASE-00132297

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
GenOn Mid-Atl. v. Montgomery Cty., Md., 650 F.3d 1021	170B+2036	For purposes of Tax Injunction Act, assessment imposed upon narrow class is less likely to be tax than assessment imposed upon broad class of parties. 28 U.S.C.A. S 1341.	Is an assessment imposed on a narrow class likely to be a tax?	044811.docx	LEGALEASE-00131534-LEGALEASE-00131535
Am. Auto. Ass'n v. State, 136 N.H. 579	371+2001	"Tax" is enforced contribution to raise revenue and not to reimburse state for special services. Const. Pt. 2, Art. 5.	Is tax an enforced contribution to reimburse the State for special services?	Taxation - Memo # 222 - C - Kl.docx	LEGALEASE-00022137-LEGALEASE-00022139
City of Hot Springs By & Through Starr v. Vapors Theatre Rest., 298 Ark. 444	371+2001	Any doubt regarding imposition of tax should be resolved in favor of taxpayer and against taxing authority.	Should any doubt regarding imposition of tax be resolved in favor of a taxpayer and against the taxing authority?	044879.docx	LEGALEASE-00132019-LEGALEASE-00132020
Centerre Bank of Crane v. Dir. of Revenue, 744 S.W.2d 754	371+2001	It is manner of operation which determines nature of tax, not sanctions imposed for failure to pay it.	Do sanctions imposed for failure to pay the tax determine the nature of a tax?	044912.docx	LEGALEASE-00131907-LEGALEASE-00131908
Mills v. Cty. of Trinity, 108 Cal. App. 3d 656	371+2001	In its broadest sense, a "tax" includes all charges upon persons or property for support of government or for public purposes.	"What does ""tax"" include in its broadest sense?"	044942.docx	LEGALEASE-00132010-LEGALEASE-00132011
Dalton v. State Prop. & Buildings Comm'n, 304 S.W.2d 342	371+2001	Ordinarily, phrase "annual tax" means a direct ad valorem tax and a tax which is levied each year. Const. S 50.	"Does the phrase ""annual tax"" mean a direct ad valorem tax and a tax which is levied each year?"	045048.docx	LEGALEASE-00132116-LEGALEASE-00132117
United States v. Pomponio, 511 F.2d 953	63+1(1)	The word "bribery" as used in the Travel Act is not limited to the corruption of public officials, and extended to defendant's conduct in making payments to bank officer for purpose of influencing his conduct relative to loans made to corporations owned or controlled by defendants. Penal Law N.Y.1965, S 180.00; 18 U.S.C.A. SS 215, 1952.	"Is ""bribery"" as used in the Travel Act only limited to the corruption of public officials?"	011346.docx	LEGALEASE-00133216-LEGALEASE-00133217
People v. Blue, 207 Ill. 2d 542	282+120	False reporting is not a specific instance of attempt to influence a public servant; while the crime of false reporting penalizes those who provide untruthful information to public officials, regardless of an attempt to influence public officials, the attempted influence offense can occur without any false reporting at all. West's C.R.S.A. SS 18-1-408(1), 18-8-111(1)(d), 18-8-306.	Is false reporting a specific instance of attempt to influence a public servant?	Bribery - Memo #264 - C-JL.docx	ROSS-003300849-ROSS-003300850
N. J. Gendron Lumber Co. v. Great N. Homes, 8 Mass. App. Ct. 411	379+210	"Commercial bribery" is advantage one competitor secures over fellow competitor by his secret and corrupt dealing with employees or agents of prospective purchasers. M.G.L.A. c. 271 S 39.	What does the crime of commercial bribery entail?	011432.docx	LEGALEASE-00133387-LEGALEASE-00133388
Pramer S.C.A. v. Abaplus Int'l Corp., 76 A.D.3d 89	13+5	Private right of action is not implied under the commercial bribery provisions of the Penal Law.	Is a private right of action implied under the commercial bribery provisions?	Bribery - Memo #302 - C-JL.docx	ROSS-003327686-ROSS-003327687
Sardanis v. Sumitomo Corp., 279 A.D.2d 225	13+5	Penal Law's commercial bribery provision did not create implied private right of action. McKinney's Penal Law S 180.03.	Is a private right of action implied under the commercial bribery provisions?	011447.docx	LEGALEASE-00133034-LEGALEASE-00133035
Dreisbach v. Eifler, 764 S.W.2d 631	289+658	Partner owns no personal specific interest in any specific property or asset of partnership, and thus, cannot assign any interest in a specific property or particular asset.	Do partners have personal interest in specific property belonging to the partnership?	022086.docx	LEGALEASE-00133484-LEGALEASE-00133485
Home State Bank v. Vandolah, 188 Ill.App. 123	289+810(1)	One partner may assign his interest in partnership property to third person but such person does not thereby become partner in firm without consent of other partners.	Can a partner convey his property rights to a third person?	022106.docx	LEGALEASE-00133507-LEGALEASE-00133508
Allen v. Devon Energy Holdings, 367 S.W.3d 355	289+1134	A general partner in a limited partnership owes a fiduciary duty to the limited partners because of its control over the entity.	Does a general partner in a limited partnership owe a fiduciary duty to a limited partner?	022118.docx	LEGALEASE-00133525-LEGALEASE-00133526

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Soley v. VanKeppel, 656 N.E.2d 508	289+429	Lack of daily involvement by one partner is not per se indicative of absence of partnership. West's A.I.C. 23-4-1-7.	Is the lack of daily involvement by one partner per se indicative of an absence of a partnership?	022147.docx	LEGALEASE-00133549-LEGALEASE-00133550
Fox v. Fifth W., 153 Mont. 95	307A+743	Court's pretrial order restricting argument with reference to alleged omission, which went to issue of entire case, was error.	Is a court's pre-trial order restricting counsel on an evidentiary point that went to the issue of the entire case itself an error?	Pretrial Procedure - Memo # 1832 - C - KS.docx	ROSS-003287275-ROSS-003287276
Rogers v. Rausa, 871 So. 2d 748	307A+750	If a claim or issue is omitted from the pretrial order, it is waived, even if it appeared in the complaint.	Is it a waiver if a claim or issue is omitted from the pretrial order even if it appeared in the complaint?	027101.docx	LEGALEASE-00133241-LEGALEASE-00133242
Am. Nat. Rent-A-Car v. McNally, 8 Ariz. App. 208	307A+747.1	Pretrial order may be dispensed with only for good reason. 17 A.R.S. Uniform Rules of Practice of the Superior Court, rule VI(c).	Can a pretrial order be dispensed with only for a good reason?	027110.docx	LEGALEASE-00133223-LEGALEASE-00133225
Barrow v. Abramowicz, 931 A.2d 424	307A+749.1	Scheduling orders are not merely guidelines but have full force and effect as any other order of the superior court. Superior Court Civil Rule 16.	Do scheduling orders have full force and effect as any other order of the superior court?	027116.docx	LEGALEASE-00133068-LEGALEASE-00133071
Oller v. Kincheloe's, 235 Kan. 440	307A+749.1	A pretrial order which specifies the issues to be tried supersedes and replaces the pleadings. Rules Civ.Proc., K.S.A. 60-216.	Does a pretrial order that specifies the issues to be tried supersede and replace the pleadings?	027161.docx	LEGALEASE-00133117-LEGALEASE-00133118
Cade v. Mid-City Hosp. Corp., 45 Cal. App. 3d 589	307A+717.1	Unavailability of witness or absence of evidence may be proper grounds for continuance.	May the unavailability of a witness or absence of evidence be proper grounds for continuance?	027187.docx	LEGALEASE-00132976-LEGALEASE-00132977
Contreras By & Through Contreras v. Carbon Cty. Sch. Dist. No. 1, 843 P.2d 589	30+3311	Trial court has discretion to waive requirements contained in its pretrial orders, and ruling which excuses failure to observe pretrial order will not be overturned on appeal unless there has been abuse of discretion.	Does the trial court have the discretion to waive requirements contained in its pretrial orders?	Pretrial Procedure - Memo # 2148 - C - SN.docx	ROSS-003301597-ROSS-003301598
Esmieu v. Schrag, 92 Wash. 2d 535	307A+749.1	Parties are bound by the facts agreed to at pretrial conference and established by the pretrial order. CR 16(b).	Are parties bound by the facts agreed to at the pretrial conference and established by the pretrial order?	027713.docx	LEGALEASE-00132764-LEGALEASE-00132765
Beverly Enterprises-Arkansas v. Hillier, 341 Ark. 1	307A+501	Plaintiff has an absolute right to voluntarily nonsuit a claim without prejudice. Rules Civ.Proc., Rule 41(a).	Does a plaintiff have an absolute right to voluntarily nonsuit a claim without prejudice?	Pretrial Procedure - Memo # 2579 - C - ES.docx	ROSS-003300133-ROSS-003300134
Stearns Bank N.A. v. Palmer, 182 S.W.3d 624	307A+517.1	The trial court loses jurisdiction on the date a voluntary dismissal is filed. V.A.M.R. 67.02(a).	Does the trial court lose jurisdiction on the date a voluntary dismissal is filed?	028204.docx	LEGALEASE-00133142-LEGALEASE-00133143
Hyman Farm Serv. v. Earth Oil & Gas Co., 920 S.W.2d 452	307A+517.1	Venue was not conclusively fixed by first filing, where venue determination was not made in first suit.	"Is a venue not conclusively fixed by first filing, where venue determination was not made in the first suit?"	028208.docx	LEGALEASE-00133182-LEGALEASE-00133183
Sec. Pac. Hous. Servs. v. Friddle, 315 Ark. 178	307A+517.1	Dismissal with prejudice is as conclusive of rights of parties as if there were adverse judgment after trial.	Is dismissal with prejudice as conclusive of rights of parties as if there were an adverse judgment after the trial?	028216.docx	LEGALEASE-00133273-LEGALEASE-00133274
Wright v. Eddinger, 320 Ark. 151	307A+506.1	After final submission of case, motion for voluntary nonsuit is within discretion of trial court. Rules Civ.Proc., Rule 41(a).	Is it within a court's discretion to permit a nonsuit after final submission of case?	028397.docx	LEGALEASE-00132894-LEGALEASE-00132895
Ross v. Wallack, 188 So. 3d 597	307A+486	The proper procedural mechanism to accomplish the withdrawal of admissions that have been deemed admitted by operation of law is to file a motion asking that the admissions be withdrawn. Rules Civ.Proc., Rule 36(b).	What is the proper procedural mechanism to accomplish the withdrawal of admissions?	028570.docx	LEGALEASE-00132714-LEGALEASE-00132715
Bass v. Durham Cty. Hosp. Corp., 158 N.C. App. 217	307A+517.1	The effect of a voluntary dismissal is to leave the plaintiff exactly as she was before the action was commenced. Rules Civ.Proc., Rule 41(a), West's N.C.G.S.A. S 1A-1.	Is the effect of a voluntary dismissal to leave the plaintiff exactly as she was before the action was commenced?	Pretrial Procedure - Memo # 2807 - C - BP.docx	ROSS-003315062-ROSS-003315063

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Trent v. Franco, 253 Ga. App. 104	307A+517.1	The renewal statute is remedial in nature, and it is construed liberally to allow renewal where a suit is disposed of on any ground not affecting its merits. O.C.G.A. S 9-2-61.	Is the renewal statute remedial in nature?	028621.docx	LEGALEASE-00133012- LEGALEASE-00133013
In re Tutu Wells Contamination Litig., 846 F. Supp. 1243	386+14	Under Virgin Islands law, harm to plaintiff's property, physical or otherwise, is not element of tort of trespass. Restatement (Second) of Torts SS 158, 163.	"Is a harm to the Plaintiffs' property, physical or otherwise, an element of the tort of trespass?"	047316.docx	LEGALEASE-00133306- LEGALEASE-00133307
Lugue v. Hercules, 12 F. Supp. 2d 1351	386+14	Under Georgia law, any unlawful interference with property, regardless of actual injury, is considered a trespass. O.C.G.A. S 51-9-1.	Can any unlawful interference with property regardless of actual injury be considered as a trespass?	047328.docx	LEGALEASE-00133385- LEGALEASE-00133386
Case Poythress v. J. P. Stevens & Co., 54 N.C. App. 376	413+1	Workers' Compensation Act has never been construed to guarantee recovery; it merely affords right to claim for recovery.	Does the Workers' Compensation Act guarantee recovery?	Workers Compensation - Memo #138 ANC.docx	LEGALEASE-00023305- LEGALEASE-00023306
Cunning v. City of Hopkins, 258 Minn. 306	413+1	The right to workmen's compensation does not arise out of tort, but exists by reason of the Workmen's Compensation Act. M.S.A. SS 176.011, subd. 16, 176.021, subd. 1.	"Does the right to workmens compensation arise out of tort, or does it exist by reason of the Workmens Compensation Act?"	Workers Compensation - Memo #200 ANC.docx	LEGALEASE-00023361- LEGALEASE-00023362
United States v. Bankers Ins. Co., 245 F.3d 315	25T+151	Mandatory arbitration, as a prerequisite to initiation of litigation, and binding arbitration, in which the parties must accept an award or decision of the arbitrator, are two different things, and although non-binding arbitration may turn out to be a futile exercise, this fact does not, as a legal matter, preclude a non-binding arbitration agreement from being enforced.	Is it possible to enforce a non-binding arbitration clause?	007611.docx	LEGALEASE-00133664- LEGALEASE-00133665
Rhynehardt v. Sears Logistics Servs., 103 Ohio App. 3d 327	307A+517.1	Unless otherwise stated in notice of dismissal, a voluntary dismissal is without prejudice. Rules Civ.Proc., Rule 41(A)(1).	"Unless otherwise stated in the notice of dismissal, is a voluntary dismissal without prejudice?"	Pretrial Procedure - Memo # 2614 - C - KA.docx	ROSS-003305099-ROSS- 003305100
United States v. Forfari, 268 F.2d 29	34+4	Nonappropriated fund instrumentalities of the Army, Air Force, Navy and Marine Corps are integral parts of United States military services. 5 U.S.C.A. SS 150k, 150k-1; West's Ann.Cal.Labor Code, S 3601.	Are non-appropriated fund instrumentalities of the United States integral parts of United States military services?	008388.docx	LEGALEASE-00133760- LEGALEASE-00133761
L. B. Smith v. Bankers Tr. Co. of W. N. Y., 80 A.D.2d 496	8.30E+211	A check drawn payable to two payees, A and B, whose names are separated by a virgule is a check payable to the payees in the alternative; such a check is functionally identical to one drawn payable to two payees in the manner "A or B." Uniform Commercial Code, S 3-116.	Does checks which listed payees should be separated by a virgule and payable to the payees in the alternative?	010206.docx	LEGALEASE-00133887- LEGALEASE-00133888
Alvarado v. Hyundai Motor Co., 885 S.W.2d 167	307A+517.1	Taking of nonsuit does not prejudice parties from seeking same relief in subsequent suit. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	Does taking of nonsuit prejudice parties from seeking the same relief in a subsequent suit?	028329.docx	LEGALEASE-00133713- LEGALEASE-00133714
Hugh O'Connor v. J. Robert Autenreith, 343 So. 2d 1090	308+111(1)	Agent's power, which must be express and special for number of purposes including power to compromise, must also be express and special for power to grant gratuitous remission of debt. LSA-C.C. art. 2997.	Should an agents powers be express and special to effect compromise?	042133.docx	LEGALEASE-00133736- LEGALEASE-00133737
State v. Burch, 740 S.W.2d 293	210+572(2)	It is generally permissible and sufficient for indictment to charge offense in language of statute, provided statute sets forth all constituent elements of offense.	Does an indictment require all elements of the offense alleged?	043068.docx	LEGALEASE-00133812- LEGALEASE-00133813

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Bd. of Ed. of Union Free Sch. Dist. No. 3 of Town of Oyster Bay, Nassau Cty. v. Allen, 6 A.D.2d 316	371+2001	Taxation is to support the public welfare, as that may from time to time and from place to place be conceived.	"Is the theory of taxation, as that may from time to time and from place to place be conceived, to support public welfare? "	Taxation - Memo # 390 - C - KBM.docx	LEGALEASE-00023742-LEGALEASE-00023743
Niblack v. Adler, 209 Ill. App. 156	8.30E+266	Whether promissory note would be deemed renewal of former note, depended on intention of the parties.	Does the question whether the note could be deemed a renewal of a former note depends on the intention of the parties?	009466.docx	LEGALEASE-00134258-LEGALEASE-00134259
In re Dunneback's Estate, 302 Mich. 73	83E+679	A renewal note does not operate as "payment" of the original debt in absence of a novation or express agreement of the parties.	Does the renewal of an original note operate as payment?	009474.docx	LEGALEASE-00134396-LEGALEASE-00134397
Ne. Factor & Disc. Co. v. Mortg. Investments of Ga., 107 Ga. App. 705	83E+405	Writing in back of a bill or note with the intention of transferring title is an indorsement even though it is in terms an assignment.	Is a writing on the back of a bill or a note an indorsement?	Bills and Notes - Memo 287- V - IS.docx	ROSS-003290010-ROSS-003290011
United States v. Kemp, 500 F.3d 257	372+1021	District Court did not misstate the law when instructing jury on the bribery theory of honest services wire fraud; Court repeatedly emphasized the quid pro quo element, explained that it was not necessary to show that any specific benefit was given in exchange for any specific official act, and explained that specific intent to engage in a quid pro quo exchange was required. 18 U.S.C.A. S 1346.	"Under the stream of benefits theory of bribery, does it need to be shown that any specific benefit was given in exchange for a specific official act?"	011227.docx	LEGALEASE-00133996-LEGALEASE-00133998
People v. Coward, 100 A.D.2d 628	110+29(12)	Fact that defendant was acquitted of rape and sodomy did not preclude consideration of the injuries inflicted during the alleged sexual attack for purposes of determining whether physical injury occurred to the victim for purposes of showing that defendant committed burglary in the first degree. McKinney's Penal Law SS 10.00, subd. 9, 140.30.	Does first degree burglary conviction require physical injury to the victim?	Burglary - Memo 96 - KNR.docx	ROSS-003329792-ROSS-003329794
Comm'r of Transp. v. Shea, 47 Conn. Supp. 418	200+80	The right of freehold is not touched by establishing a highway; it continues in original owner of land in the same manner as before highway was established, subject to easement.	What happens to the right of freehold on establishment of a highway?	Highways -Memo 104 - DB.docx	ROSS-003329815-ROSS-003329816
Smith v. St. Louis Cty. Softball Assoc., 623 S.W.2d 38	302+233.1	Although rules stress liberality in allowing amendments to pleadings, granting such leave is not mandatory. V.A.M.R. 55.33, 67.06.	Is granting leave to amend pleadings mandatory?	Pleading - Memo 297 - RMM.docx	ROSS-003303721-ROSS-003303722
Smith v. St. Louis Cty. Softball Assoc., 623 S.W.2d 38	302+236(1)	Trial court has discretion to deny request for leave to amend petition. V.A.M.R. 55.33, 67.06.	Do the trial court have discretion to deny a request for leave to amend a petition?	023271.docx	LEGALEASE-00134262-LEGALEASE-00134263
Gibson v. Brewer, 952 S.W.2d 239	302+48	Missouri is a fact-pleading state; short and plain statement of facts showing that pleader is entitled to relief presents, limits, defines, and isolates contested issues for trial court and parties in order to expedite trial on merits. V.A.M.R. 55.05.	Should pleadings contain short and plain statement of the facts showing that the pleader is entitled to relief?	Pleading - Memo 304 - RMM.docx	ROSS-003290566-ROSS-003290567
Hodge v. Johnson, 852 N.E.2d 650	307A+517.1	Where an action is voluntarily dismissed without prejudice, the situation is as though no action had been brought.	"Where an action is voluntarily dismissed without prejudice, is the situation as though no action had been brought?"	028419.docx	LEGALEASE-00133964-LEGALEASE-00133965

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Ex parte Green, 103 S.W. 503	307A+69.1	Where depositions are taken under notice providing that the taking will begin on a specified day and continue from day to day until the depositions are completed, and continuances are had, the officer should keep a record showing what was done on each day, and the cause for each continuance or adjournment.	"If for any reason the taking of deposition is adjourned to the following day, should the officer taking the deposition note the cause for the adjournment?"	028940.docx	LEGALEASE-00134015- LEGALEASE-00134016
Spiecker v. Petroff, 971 S.W.2d 536	307A+486	In construing rule requirements for withdrawal of deemed admissions, Court of Appeals must give liberal construction to rule. Vernon's Ann.Texas Rules Civ.Proc., Rules 1, 169(2).	"In construing rule requirements for withdrawal under rule 169, do the courts liberal construction to the rule?"	028981.docx	LEGALEASE-00134740- LEGALEASE-00134742
Allied Gas & Chem. Co. v. Federated Mut. Ins. Co., 332 N.W.2d 877	307A+486	There is no need to distinguish between motion to file untimely response and motion to amend or withdraw an admission. Rules Civ.Proc., Rules 127, 128.	Do courts acknowledge the similarity between the rulings on motion to file untimely response and motion to amend or withdraw an admission?	028990.docx	LEGALEASE-00134745- LEGALEASE-00134746
Marshall v. Vise, 767 S.W.2d 699	307A+483	Unanswered requests for admissions are automatically deemed admitted, unless court on motion permits there withdrawal or amendment. Vernon's Ann.Texas Rules Civ.Proc., Rule 169.	"Upon failure to answer request to admit or deny genuineness of certain facts, are facts therein automatically deemed admitted?"	029049.docx	LEGALEASE-00134291- LEGALEASE-00134292
Brankovic v. Snyder, 259 Ga. App. 579	307A+486	Merely being forced to go to trial is not the sort of prejudice as will prevent the withdrawal of deemed admissions. West's Ga.Code Ann. S 9-11-36(b).	Is merely being forced to go to trial not the sort of prejudice as will prevent the withdrawal of deemed admissions?	029069.docx	LEGALEASE-00134402- LEGALEASE-00134403
Kohl v. United States, 226 F.2d 381	371+2001	A tax imposed on property or income therefrom only by reason of its ownership is direct. U.S.C.A. Const. art. 1, SS 2, 9.	"Is a tax imposed on property or income therefrom only by reason of its ownership, a direct tax?"	045025.docx	LEGALEASE-00134422- LEGALEASE-00134423
WHYY v. Borough of Glassboro, 50 N.J. 6	371+2001	As existence of government is necessity, taxes are demanded and received in order for government to function.	"Are taxes demanded and received in order for the government to function, as the existence of government is a necessity?"	045039.docx	LEGALEASE-00134343- LEGALEASE-00134344
State ex rel. Lane Drug Stores v. Simpson, 122 Fla. 582	371+2001	Character of tax must be determined from its practical effect and operation, rather than from particular descriptive language applied thereto. Const.U.S. Amend. 14; Const.Fla.Declaration of Rights, S 1.	Can the character of a tax be determined by the language used?	045060.docx	LEGALEASE-00134237- LEGALEASE-00134239
Menz v. Coyle, 117 N.W.2d 290	371+2001	A "tax" is an enforced contribution for public purposes which is in no way dependent upon will or consent of person taxed.	Is a tax in any way dependent upon will or consent of person taxed?	045082.docx	LEGALEASE-00134108- LEGALEASE-00134109
Seeth v. Joseph, 276 A.D. 188	371+2001	The matter of revenue taxation has no relation to the subject of regulation or police power.	Does the matter of revenue taxation have any relation to the subject of regulation or police power?	045088.docx	LEGALEASE-00133994- LEGALEASE-00133995
Parks Hiway Enterprises v. CEM Leasing, 995 P.2d 657	386+11	Trespass is an unauthorized intrusion or invasion of another's land, including subsurface areas.	"Can trespass include intrusion or invasion of another's land, including subsurface areas?"	047414.docx	LEGALEASE-00134779- LEGALEASE-00134780
Thomas v. Carnival Corp., 573 F.3d 1113	25T+515	Unless there is affirmative defense that prevents application of United Nations Convention on Recognition and Enforcement of Foreign Arbitral Awards, court should compel parties to arbitrate, providing following jurisdictional prerequisites are met: (1) there is agreement in writing to arbitrate dispute; (2) agreement provides for arbitration in territory of signatory of Convention; (3) agreement arises out of legal relationship, whether contractual or not, that is considered commercial; and (4) one party to agreement is not United States citizen, or commercial relationship at issue has some reasonable relation with foreign state. 9 U.S.C.A S 201 et seq.	Can recognition and enforcement of an arbitral award be refused by courts?	007536.docx	LEGALEASE-00135794- LEGALEASE-00135795

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United States v. Whitfield, 590 F.3d 325	372+1021	At trial of attorney and two former state judges charged with honest services fraud in connection with two separate prolonged bribery schemes, jury instructions accurately stated the law, even though district court did not include phrase "quid pro quo"; court required government to prove that defendants entered into corrupt agreement for attorney to provide judge with things of value with intent to influence judge's action or judgment on any matter which may then have been or was thereafter pending subject to judge's action or judgment, court instructed jury to consider whether judges' rulings were accompanied by honest belief in the law and facts of a case rather than a corrupt purpose, government was not required to prove that defendants had identified a particular case that would be influenced, only that they had specific intent to give or receive something of value in exchange for an official act to be performed in the future, and this sufficiently conveyed essential idea of give-and-take. 18 U.S.C.A. S 1346; Miss.Code 1972, S 97-11-11.	"In order to prove a case of bribery, does the government have to prove the occurrence of the quid pro quo?"	011573.docx	LEGALEASE-00135173-LEGALEASE-00135175
Shockley v. State, 695 S.W.2d 754	67+41(3)	Intent, as an essential element of burglary, must be proved by state beyond a reasonable doubt; it may not be left simply to speculation and surmise; however, as a question of fact for jury, intent may be inferred from surrounding circumstances. V.T.C.A., Penal Code S 30.02.	Does burglary require proof beyond a reasonable doubt?	Burglary - Memo 112-JS.docx	LEGALEASE-00024937-LEGALEASE-00024938
Shelly v. State, 107 Ga. App. 736	135H+144	Offenses of possessing burglary tools and burglary are separate and distinct, and a person being prosecuted for either is in no jeopardy of being convicted of the other, or of being convicted of an offense which is an essential part of the other.	Is the possession of burglary tools different from burglary?	Burglary - Memo 121 - JS.docx	ROSS-003303668-ROSS-003303670
State v. Richards, 29 Utah 310	67+8	Under Rev. St. 1898, S 4334, defining "burglary" as entering "in the nighttime," etc., and section 4338, defining "nighttime" as the period between sunset and sunrise, a larceny, to constitute burglary, must be committed in the nighttime, and affirmative proof that it was so committed must be adduced; but such proof need not be direct, but may be circumstantial, in character.	What is nighttime in burglary?	Burglary - Memo 160 - JS.docx	ROSS-003330657-ROSS-003330659
McNeill v. Thomas, 203 N.C. 219	302+8(15)	Unless facts relied on to constitute fraud are distinctly alleged, courts cannot grant relief therefor.	Should facts relied on to constitute fraud or mistake be distinctly alleged?	023320.docx	LEGALEASE-00135668-LEGALEASE-00135669
Cardiff Equities v. Superior Court, 166 Cal. App. 4th 1541	307A+517.1	A court cannot force a litigant to pursue claims it chooses to abandon through voluntary dismissal. West's Ann.Cal.C.C.P. S 581.	Can a court force a litigant to pursue claims it chooses to abandon through voluntary dismissal?	028520.docx	LEGALEASE-00134978-LEGALEASE-00134979
Autry v. Bryan, 224 Va. 451	307A+716	Client is not to be rewarded with continuance when there is unexplained, unexcused nonappearance by his attorney of record.	"Should a client be rewarded with continuance when there is unexplained, unexcused nonappearance by his attorney of record?"	Pretrial Procedure - Memo # 3270 - C - KG.docx	LEGALEASE-00025187-LEGALEASE-00025188
Cont'l Cas. Co. v. Kinsey, 513 N.W.2d 66	307A+24	It is incumbent upon party requesting additional discovery prior to ruling on summary judgment motion to bring to court's attention reasons justifying that request. Rules Civ.Proc., Rule 56(f).	"Is it incumbent upon a party wishing to rely on requests for admission to put the requests into evidence, and the record, as by a motion to admit?"	029560.docx	LEGALEASE-00135411-LEGALEASE-00135412

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
People v. Avila, 117 Cal. App. 4th 771	110+589(2)	Illness of the defendant constitutes good cause sufficient to grant a motion for a mistrial or a request to continue the trial.	Is sickness of principal counsel a good cause for a continuance at a trial?	Pretrial Procedure - Memo # 3550 - C - KG.docx	ROSS-003290959-ROSS-003290960
Schiro v. Monteleone, 2 La. App. 280	275+86	A firm composed of two lawyers is not entitled to continuance, nor to new trial, on ground that one was engaged in another court, when case presented no difficulty, and party applying suggests no evidence which would have produced different judgment.	"Does an absence of counsel a ground of continuance, where a party has been assisted by other counsel and had no evidence which would have produced a different result if his counsel had been present?"	029726.docx	LEGALEASE-00135681-LEGALEASE-00135682
Babcock v. Martinez, 368 Ill. App. 3d 130	307A+483	Although a party may constructively admit facts, even ultimate facts, by failing to respond to a request for admission, a party does not constructively admit legal conclusions by a failure to respond to requests that contain those conclusions. Sup.Ct.Rules, Rule 216(c).	Does a party's failure to respond to a request to admit facts pursuant to Supreme Court Rules admit any specified relevant fact set forth in the request?	029810.docx	LEGALEASE-00135380-LEGALEASE-00135381
Employers Ins. of Wausau v. Halton, 792 S.W.2d 462	307A+483	Good cause is threshold standard for withdrawal of deemed admissions. Vernon's Ann.Texas Rules Civ.Proc., Rule 169.	Is good cause a threshold standard for withdrawal of deemed admissions?	029812.docx	LEGALEASE-00135390-LEGALEASE-00135391
Lambert v. Bunge Corp., 169 So. 2d 207	307A+716	Illness of principal counsel in trial of case is good ground for continuance. LSA-C.C.P. art. 1601.	Is illness of a principal counsel in trial of case a good ground for continuance?	029833.docx	LEGALEASE-00135697-LEGALEASE-00135698
Bradford Motor Cars v. Frem, 511 So. 2d 1120	307A+483	Plaintiff cannot liquidate damages merely by serving a request for admissions which is not answered.	Can a plaintiff liquidate damages merely by serving a request for admissions which is not answered?	Pretrial Procedure - Memo # 3673 - C - NE.docx	LEGALEASE-00025603-LEGALEASE-00025604
Schiro v. Monteleone, 2 La. App. 280	275+86	A firm composed of two lawyers is not entitled to continuance, nor to new trial, on ground that one was engaged in another court, when case presented no difficulty, and party applying suggests no evidence which would have produced different judgment.	Is the absence of counsel a ground of continuance where a party has been assisted by other counsel and had no evidence which would have produced a different result if his counsel were present?	Pretrial Procedure - Memo # 3802 - C - SB.docx	ROSS-003317906-ROSS-003317907
Barton v. Lary, 283 S.W. 920	307A+717.1	First application for continuance because of absence of material witness, to procure whom due diligence was shown, held erroneously overruled.	Should an application which shows that the applicant has not used due diligence to procure the attendance of the witness be overruled?	030393.docx	LEGALEASE-00135991-LEGALEASE-00135992
State Indus. Acc. Comm'n v. Aebi, 177 Or. 361	371+2001	An exaction imposed by statute does not lose its character as a tax because it is applied only to a certain class.	Does exaction imposed by statute destroy the character of a tax merely because it is applied only to a certain class?	045236.docx	LEGALEASE-00135016-LEGALEASE-00135017
Franco v. Bank of Forest Park, 118 Ga. App. 700	8.30E+186	Where notations in margin of note concerning amount included for credit life premiums on life of maker of note and how much was included for interest to maturity did not alter or change obligation of contract, notations were not material alterations, though notations were made after note was signed without knowledge or consent of maker. Code, S 109A-3-407.	Do alterations on the note operate to discharge the parties from their obligations?	Bills and Notes -Memo 236 -VP.docx	ROSS-003317018
United States v. Agostino, 132 F.3d 1183	110+1173.1	Court of Appeals will reverse based on error in refusing to give requested instructions only if, considering all instructions, evidence and arguments, it appears that jury was misled and its understanding of issues was seriously affected to prejudice of complaining party.	What constitutes misleading the jury in a bribery trial?	Bribery - Memo #207 - C-EB.docx	LEGALEASE-00025855-LEGALEASE-00025857

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Zwick, 199 F.3d 672	63+1(1)	The value of a transaction is not required to be measured from the perspective of the organization, government, or agency in question, when determining whether an agent of an organization, government, or agency receiving federal funds has violated the statute prohibiting the acceptance of a bribe with respect to a transaction having a value of \$5,000 or more. 18 U.S.C.A. S 666(a)(1)(B).	"What is the purpose of the \$5,000 value element for bribery under the bribery statute?"	011322.docx	LEGALEASE-00136900-LEGALEASE-00136902
United States v. Jennings, 160 F.3d 1006	63+1(1)	"Illegal gratuity," for purposes of statute prohibiting bribery of public officials and witnesses, is a payment made to an official concerning a specific official act or omission that the payor expected to occur in any event. 18 U.S.C.A. S 201(c)(1)(A).	How is illegal gratuity defined under the statute?	Bribery - Memo #460 - C-JL.docx	ROSS-003317530-ROSS-003317532
State v. Lopez, 522 So. 2d 997	63+1(1)	Bribery statute prohibits any payment intended to influence performance of any act by public servant, even if person pays for doing of act the public servant is legally bound to do. West's F.S.A. S 838.015(1).	Does a public servant still violate bribery statute even if he is legally bound to do so?	011867.docx	LEGALEASE-00136099-LEGALEASE-00136100
D. P. v. State, 129 Ga. App. 680	211+2561	Where petition in juvenile delinquency proceeding alleged that juvenile had committed burglary but made no mention of offense of receiving stolen goods and receiving stolen goods was not lesser included offense within crime of burglary, there was insufficient notice to the juvenile of the offense alleged to be the basis for his delinquency. Code, S 24A-1603.	Is receiving stolen goods a lesser included offense than burglary?	Burglary - Memo 138 - JS.docx	ROSS-003330645-ROSS-003330647
Manuel v. Red Hill Cmty. Unit Sch. Dist. No. 10 Bd. of Educ., 324 Ill. App. 3d 279	302+11	A statement of a defendant's knowledge is an allegation of ultimate fact and not a conclusion, and plaintiff need not plead the evidentiary facts that he will use to prove the defendant's knowledge.	Should a plaintiff plead evidentiary facts to prove defendants' knowledge?	Pleading - Memo 324 - RMM.docx	ROSS-003289457-ROSS-003289458
Chatham Surgicore, Ltd. v. Health Care Serv. Corp., 356 Ill. App. 3d 795	302+8(1)	A complaint need only allege facts which establish the right to recovery; not only are allegations of law or conclusions not required, they are improper.	Are allegations of law or conclusions in complaint improper?	023348.docx	LEGALEASE-00136866-LEGALEASE-00136867
Gerken v. State Auto Ins. Co. of Ohio, 2014-Ohio-4428	307A+483	Trial court has no discretion whether to deem matters admitted when party fails to answer request for admission by the deadline. Rules Civ.Proc., Rule 36(A) (2011).	"Is the rule governing requests for admission self-executing, and the matters set forth in the requests for admissions are automatically deemed admitted if they are not answered by the rule's deadline?"	Pretrial Procedure - Memo # 3592 - C - NA.docx	ROSS-003290501-ROSS-003290502
Coyne v. State Farm Fire & Cas. Co., 50 Misc. 2d 58	307A+477.1	Where simple request or demand for admission is made, response should be a simple "admit or deny". CPLR S 104.	"Should the response be a simple ""admit or deny"", where simple request or demand for admission is made?"	030278.docx	LEGALEASE-00136666-LEGALEASE-00136667
Stribling v. Stribling, 85 S.W.2d 315	307A+723.1	Application for continuance must show compliance with statute to entitle applicant to continuance as matter of right. Vernon's Ann.Civ.St. art. 2168.	Should an application for continuance show compliance with a statute to entitle an applicant to continuance as a matter of right?	030296.docx	LEGALEASE-00136846-LEGALEASE-00136847
State v. Cologne, 562 So. 2d 24	110+603.2	General rule is that motions for continuance be in writing since denial of oral motion for continuance leaves nothing for review; however, exception exists where circumstances producing motion for continuance occur unexpectedly and counsel for defendant had no opportunity to prepare written motion. LSA-C.Cr.P. art. 707.	Should a motion for a continuance be considered as being in writing?	Pretrial Procedure - Memo # 4062 - C - NS.docx	ROSS-003332144-ROSS-003332145

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Collins v. Frost, 54 Ind. 242	307A+723.1	Time to prepare and file an affidavit for continuance is within the discretion of the trial court.	Is the time to prepare and file an affidavit for continuance within the discretion of the trial court?	Pretrial Procedure - Memo # 4086 - C - SK.docx	ROSS-003317629-ROSS-003317630
Taylor v. Morgan, 379 So. 2d 1256	307A+725	Rule requiring 20-day interlude between date of setting and trial applied only to initial settings or resettings to future trial dates and not to continuances from time to time. Rules of Civil Procedure, rule 40.	Does the rule requiring 20-day interlude between date of setting and trial apply to continuances?	030867.docx	LEGALEASE-00136934-LEGALEASE-00136935
In re Jacobs, 300 S.W.3d 35	307A+36.1	A defendant's net worth is relevant in a suit involving exemplary damages; therefore, in cases where such damages may be awarded, parties may discover and offer evidence of a defendant's net worth.	Is a defendant's net worth relevant in a suit involving exemplary damages?	031177.docx	LEGALEASE-00137012-LEGALEASE-00137015
Pelas v. Wooley, 297 So. 2d 546	307A+725	Every contested motion for continuance is to be tried contradictorily with opposing party. LSA-C.C.P. arts. 1601, 1602.	Is every contested motion for continuance to be tried contradictorily with opposing party?	031196.docx	LEGALEASE-00137051-LEGALEASE-00137052
Jordan v. Jordan, 130 S.C. 330	307A+720	Where amendment allowed during trial takes other side by surprise, case should be continued.	"Where an amendment allowed during trial takes the other side by surprise, should the case be continued?"	031200.docx	LEGALEASE-00137061-LEGALEASE-00137062
Bruno v. Gauthier, 70 So. 2d 693	308+89(5)	An agent suing for commissions is not required to allege or prove his payment for license, but his lack of license is a matter of defense to be set up and proved by defendant principal.	"If an agent sues for commissions, is he required to prove his licenses?"	041324.docx	LEGALEASE-00136870-LEGALEASE-00136871
Am. Soc. of Mech. Engineers v. Hydrolevel Corp., 456 U.S. 556	308+159(1)	Under general rules of agency law, principals are liable when their agents act with apparent authority and commit torts.	Is principal liable for the acts of an agent?	042150.docx	LEGALEASE-00136787-LEGALEASE-00136788
In re Carnahan, 160 N.H. 73	413+2	The rights and remedies provided by the workers' compensation law are purely statutory.	Are the rights and remedies provided by the workers compensation laws purely statutory?	048032.docx	LEGALEASE-00136976-LEGALEASE-00136977
New Haven Sav. Bank v. Follins, 431 F. Supp. 2d 183	83E+405	Under Massachusetts law, proper negotiation of instrument payable to identified person requires holder's written endorsement on instrument itself or on separate paper that is firmly affixed to promissory note. M.G.L.A. c. 106, S 3-104(a).	Whether endorsement should be on the instrument itself to be effective?	009429.docx	LEGALEASE-00138101-LEGALEASE-00138102
United States v. Duvall, 846 F.2d 966	63+1(2)	The Government was not required to prove that county supervisors accepted bribes with value of more than \$5,000, in action arising out of kickbacks in purchases of county materials; \$5,000 figure contained in bribery statute did not place value on bribe, but rather qualified transactions or series of transactions that recipient of bribe carries out in exchange for receiving "anything of value." 18 U.S.C.A. S 666(b).	Does the \$5000 value apply to the bribe or the transaction or series of transactions?	Bribery - Memo #511 - C-CSS.docx	ROSS-003303639-ROSS-003303641
Myers v. State Bd. of Equalization, 240 Cal. App. 4th 722	210+815	Burglary of building was lesser included offense of burglary of habitation where proof showed that trailer in which burglary occurred was enclosed structure. V.T.C.A., Penal Code S 30.01.	Is burglary of a building a lesser included offense than burglary of a habitation?	Burglary - Memo 105 - JS.docx	ROSS-003289271-ROSS-003289273
People v. Allen, 20 Cal. App. 4th 846	67+2	To constitute an auto burglary, neither forced entry in the usual sense of the word nor use of burglar tools is required. West's Ann.Cal.Penal Code S 459.	Does burglary involve entry by use of force?	Burglary - Memo 142 - JS.docx	ROSS-003317439-ROSS-003317441
State v. Crow, 517 S.W.2d 753	67+9(2)	Entry is indispensable element in crime of burglary, but to prove entry, it is not necessary to show that defendant's whole body made entrance into building; entry of hand or an instrument is sufficient. T.C.A. S 39-904.	Is entry necessary for burglary?	Burglary - Memo 143 - JS.docx	ROSS-003330648-ROSS-003330650

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Clark v. State Farm Mut. Auto. Ins. Co., 769 So. 2d 176	67+9(3)	Entry through open door can constitute burglary, assuming it is committed with requisite intent, if building is not open to the public. Vernon's Ann.Texas P.C. arts. 1390-1394 (Repealed); V.T.C.A., Penal Code SS 30.02, 30.02 comment.	Does entry through an open door constitute burglary?	Burglary - Memo 144 - JS.docx	ROSS-003291600-ROSS-003291602
State v. Davis, 160 Conn. App. 251	67+9(0.5)	Breaking and entering of dwelling house of another by night with intent to commit felony is felony of burglary under state common law.	Is burglary a common law felony?	012726.docx	LEGALEASE-00137528-LEGALEASE-00137530
State v. Scott, 38 Or. App. 465	67+4	"Railway boxcar," which conceivably could be adapted for purpose of carrying on business therein or for accommodating people overnight, but which was not so adapted and was nothing more than structure on wheels designed for storage of goods during their transportation, was not a "building" as defined in burglary statute, and thus defendant could not be convicted of first-degree burglary of boxcar. ORS 164.205(1).	What is a building under the burglary statute?	Burglary - Memo 156 - JS.docx	ROSS-003289299-ROSS-003289301
Petree v. State, 530 S.W.2d 90	210+815	Larceny and attempt to commit larceny are not essential elements of burglary and hence are not lesser included offenses of that crime. T.C.A. SS 39-901, 39-903, 39-904, 39-4202.	Is larceny a lesser included offense than burglary?	Burglary - Memo 97 - JS.docx	ROSS-003290459-ROSS-003290460
N. Indiana Transit v. Burk, 228 Ind. 162	200+179	At common law, the right to stop at a reasonable place and in a reasonable manner is an incident of the right to travel.	Is the right to stop at a reasonable place and in a reasonable manner an incident of the right to travel?	018825.docx	LEGALEASE-00137738-LEGALEASE-00137739
Otto v. Young, 227 Mo. 193	302+9	Under our system of pleading it is sufficient if the pleader states the facts and leaves the court to find the law.	Is it sufficient to states the facts and leaves the court to find the law?	023355.docx	LEGALEASE-00137073-LEGALEASE-00137074
Black v. Sutton, 299 Ky. 836	302+48	The pleader must state facts from which legal conclusions may be drawn and declared by the courts.	Should the pleader state facts from which legal conclusions may be drawn?	023357.docx	LEGALEASE-00137105-LEGALEASE-00137106
Melito v. Interboro Mut. Indem. Ins. Co., 73 A.D.2d 819	302+8(1)	While "material facts" need not be pleaded, statements in pleadings must be factual, i. e., essential facts required to give notice must be stated. CPLR 3013.	Are the statements in pleadings required to be factual?	023363.docx	LEGALEASE-00137209-LEGALEASE-00137210
Winneshiek Mut. Ins. Ass'n v. Roach, 257 Iowa 354	302+9	Pleader must plead ultimate facts in case and cannot plead conclusions by themselves; good pleading consists of statements of ultimate facts and, when so stated, pleader has right to plead his conclusions based thereon.	Can a pleader plead conclusions by themselves?	023373.docx	LEGALEASE-00137619-LEGALEASE-00137620
In re Butler, 101 N.Y. 307	307A+723.1	It is not an abuse of discretion to deny an oral motion for continuance that is not reduced to writing.	Is it is an abuse of discretion to deny an oral motion for continuance that is not reduced to writing?	030317.docx	LEGALEASE-00137479-LEGALEASE-00137480
Jordan v. Jordan, 130 S.C. 330	307A+720	Where amendment allowed during trial takes other side by surprise, case should be continued.	"While an amendment can be allowed by the court during the trial, if it takes the other side by surprise, should the case be continued?"	Pretrial Procedure - Memo # 4393 - C - MS.docx	ROSS-003290022-ROSS-003290023
In re Wurtzel, 18 Misc. 2d 994	307A+94	In filiation proceeding, motion for order striking petition of complainant for failure to attend for examination in Children's Court must be denied, in view that statute providing for depositions before trial by a party to an action in a "court of record" is inapplicable to the Children's Court which is not a "court of record." Civil Practice Act, S 288 et seq.; Rules of Civil Practice, rule 120 et seq.; Domestic Relations Law, S 1 et seq.; Judiciary Law, S 2.	Is the right to examine a party before trial purely statutory?	Pretrial Procedure - Memo # 4455 - C - KG.docx	ROSS-003318121-ROSS-003318122

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Behm v. Cape Lumber Co., 834 So. 2d 285	307A+36.1	Proper discovery includes records and information that are relevant to the calculation of damages. West's F.S.A. RCP Rule 1.280(b)(1).	Does proper discovery include records and information that are relevant to the calculation of damages?	Pretrial Procedure - Memo # 4470 - C - CK.docx	ROSS-003304607-ROSS-003304608
Bagley v. Winslow, 34 Misc. 223	307A+91	An order to examine an adverse party before trial will not be granted unless the necessity for such an examination before trial is clearly shown, and unless it appears that material facts are in his knowledge which the moving party cannot in any other manner establish.	Will an order to examine an adverse party before trial not be granted unless the necessity for such an examination before a trial is clearly shown?	031006.docx	LEGALEASE-00137621-LEGALEASE-00137623
Sparacello v. Andrews, 501 So. 2d 269	307A+725	Trial judge must look to facts of each case in ruling on party's motion for continuance. LSA-C.C.P. art. 1601.	Should a judge look to facts of each case in ruling on a partys motion for continuance?	031266.docx	LEGALEASE-00137248-LEGALEASE-00137249
Decesare v. Lember, 144 Cal. App. 3d 20	307A+725	There is no statutory basis for an allowance of attorney fees as condition for granting postponement. West's Ann.Cal.C.C.P. SS 1021 et seq., 1024.	Is there a statutory basis for an allowance of attorney fees as condition for granting postponement?	031421.docx	LEGALEASE-00137316-LEGALEASE-00137319
Crow-Crimmins-Wolff & Munier v. Westchester Cty., 126 A.D.2d 696	307A+36.1	No discovery may be had with respect to discussions between parties pursuant to an agreement providing that those discussions are off the record. McKinney's CPLR 3101(b), 5701(c).	Can no discovery be had with respect to discussions between parties pursuant to an agreement providing that those discussions are off the record?	Pretrial Procedure - Memo # 5037 - C - ES.docx	ROSS-003305239-ROSS-003305240
Stern v. Four Freedoms Nat. Med. Servs., Co., 417 So. 2d 1085	307A+724	In deciding upon sufficiency of motion for continuance, no presumption favorable to applicant is to be indulged. West's F.S.A. Rules Civ.Proc., Rule 1.460.	"Should a presumption favorable to the applicant be indulged, in deciding the sufficiency of an affidavit for continuance?"	031949.docx	LEGALEASE-00138055-LEGALEASE-00138056
Heine v. Colton, Hartnick, Yamin & Sheresky, 786 F. Supp. 360	308+106	General principles of agency law support power of agent to accept payment on behalf of principal. N.Y.McKinney's General Obligations Law S 5-1502A, subds. 6, 11.	Can an agent accept payment on behalf of a principal?	Principal and Agent - Memo 77 - KC.docx	ROSS-003291286-ROSS-003291287
Gianforte v. Crucible Steel Co. of Am., 25 N.J. Super. 183	413+1	Rights of parties in a workmen's compensation case are determined as of date of award.	Are the rights of parties in a workmens compensation case determined as of the date of the award?	047914.docx	LEGALEASE-00137101-LEGALEASE-00137102
United States v. Gillette, 420 F.2d 298	34+20.1(1)	Exercise of power to conscript and train men does not depend on contemporaneous existence of a war and may be exercised in time of peace.	Does the exercise of power to conscript depend on the contemporaneous existence of a war?	Armed Services - Memo 227 - SB.docx	ROSS-003304261-ROSS-003304262
Stratton v. Equitable Bank, N.A., 104 B.R. 713	172H+617	Under Maryland law, bank may be liable for conversion when it permits deposit of check into third party's account upon missing or unauthorized endorsement of named payee. Md.Code, Commercial Law S 3-419(1)(c).	Can the bank be held liable for conversion of check?	010326.docx	LEGALEASE-00138620-LEGALEASE-00138621
In re Wells, 407 B.R. 873	83E+481	Under Ohio law, right to enforce promissory note cannot be assigned; rather, note must be negotiated in accordance with Ohio's version of the Uniform Commercial Code (UCC). Ohio R.C. S 1303.22.	Can the right to enforce a note be assigned?	Bills and Notes -Memo 387 -VP.docx	ROSS-003302040-ROSS-003302041
People v. Dioguardi, 8 N.Y.2d 260	164T+8	Bribery of labor representative and extortion are mutually exclusive crimes, and essence of "bribery" is the voluntary giving of something of value to influence the performance of official duty, whereas the essence of "extortion" is duress. Penal Law, S 380 and subd. 2.	What is the essence of bribery?	011776.docx	LEGALEASE-00138148-LEGALEASE-00138149
State v. Stock, 212 So. 3d 1268	67+29	Specific intent is required for a conviction for simple burglary, and it may be inferred from the circumstances and actions of the accused. La. Rev. Stat. Ann. S 14:62.2.	Can specific intent in burglary be inferred from circumstances?	Burglary - Memo 168 - KNR.docx	ROSS-003290456-ROSS-003290458

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Walker, 130 S.W.3d 18	67+3	Motive is not requisite element of crime of burglary and it is only when state attempts to prove motive to bolster its case that instruction with respect to it would be at all proper.	Is motive an element of burglary?	Burglary - Memo 178 - KNR.docx	ROSS-003315936-ROSS-003315937
Edgett v. State, 43 So. 3d 541	67+19	Because the offense of burglary itself requires an underlying crime, an indictment for burglary that does not specify what crime the accused intended to commit is fatally defective.	Does burglary require an underlying crime?	Burglary - Memo 184 - KNR.docx	ROSS-003288957-ROSS-003288960
United States v. Coutchavlis, 260 F.3d 1149	129+107	In determining whether defendant's conduct created risk of "public alarm, nuisance, jeopardy, or violence," for purpose of disorderly conduct regulation, the issue is not whether the public actually witnessed the act, but rather whether the act took place in a location accessible to the public. 36 C.F.R. S 2.34(a)(2).	Is it necessary for public to witness the act under the disorderly conduct laws?	014418.docx	LEGALEASE-00138675-LEGALEASE-00138676
United States v. Mulligan, 177 F. Supp. 384	260+1	Until federal government issues final certificate, it retains both legal and equitable title to lands for which placer mining claims have been filed.	"Until the government issues the final certificate, does it retain both legal and equitable title to the mineral wealth?"	021190.docx	LEGALEASE-00138445-LEGALEASE-00138447
Martin v. Gurley, 74 Ga. App. 642	302+201	A demurrer must be free from imperfection, particularly in case of special demurrer, which must point out clearly and specifically alleged imperfection in pleading attacked thereby.	"Must a demurrer, being a critic, be free from imperfections?"	Pleading - Memo 357 - RMM.docx	ROSS-003291642-ROSS-003291643
Barker Indus. v. Gould, 146 N.C. App. 561	307A+726	Denying defendants a second continuance to obtain counsel was not an abuse of discretion, where defendants were fully aware their counsel had filed a motion to withdraw, motion had been granted by the trial court a full four months before trial was scheduled to begin, and trial court had given defendants ample opportunity to obtain counsel, including a 30-day stay of the proceedings to enable defendants to retain counsel, and a one day continuance on the day of trial when defendants announced that their attorney was not able to attend court on that day.	Will denying the defendant a second continuance to obtain counsel be considered as an abuse of discretion?	Pretrial Procedure - Memo # 4414 - C - KG.docx	ROSS-003328252-ROSS-003328253
Gleneagle Ship Mgmt. Co. v. Leondakos, 602 So. 2d 1282	307A+36.1	Discovery is permitted for purpose of determining issues such as whether jurisdiction exists.	Is discovery permitted for the purpose of determining issues such as whether jurisdiction exists?	031062.docx	LEGALEASE-00138139-LEGALEASE-00138141
Rosen v. McCobb, 192 So. 3d 576	307A+36.1	Party has right to discover financial information when related to issues in the case.	Does a party have a right to discover financial information when related to issues in the case?	Pretrial Procedure - Memo # 4528 - C - NE.docx	ROSS-003291751-ROSS-003291752
Hewins v. Weiler, 44 Ariz. 309	307A+725	Continuance, length of which is contingent on another event, is valid, unless party is denied opportunity to be heard.	Is a continuance valid if the length of it is contingent on another event?	031600.docx	LEGALEASE-00138163-LEGALEASE-00138164
Brown v. Gage, 519 S.W.2d 190	307A+726	It is only on the first application for continuance that it is not necessary to show that the absent testimony cannot be procured from any other source; on all subsequent applications, this must be shown. Rules of Civil Procedure, rule 252.	Would it be necessary to show on the first application for continuance that the absent testimony cannot be procured?	031687.docx	LEGALEASE-00138170-LEGALEASE-00138171
Stony Brook I Homeowners Ass'n v. Superior Court, 84 Cal. App. 4th 691	307A+36.1	Litigant's right to evidence of an expert's potential bias is not unfettered or unconditional.	Is a litigant's right to evidence of an expert's potential bias not unfettered or unconditional?	Pretrial Procedure - Memo # 5073 - C - SU.docx	ROSS-003291190-ROSS-003291191
Bartleman v. Humphrey, 441 S.W.2d 335	307A+74	A deposition under oath consists of original answers as well as changed answers, with witness' reasons, if any for changes.	Does a deposition under oath consist of original answers as well as changed answers?	032053.docx	LEGALEASE-00138405-LEGALEASE-00138408

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Kinnon v. Arcoub, Gopman & Assocs., 490 F.3d 886	308+141	Under Florida law, an agent who makes a contract on behalf of an undisclosed principal is a party to the contract.	"Is an agent who makes a contract on behalf of an undisclosed principal, a party to the contract?"	Principal and Agent - Memo 114 - KC.docx	ROSS-003291206-ROSS-003291207
Reed v. Trovatten, 209 Minn. 348	13+65	The right to a writ of mandamus is determined as of the time of the hearing rather than of the application.	Is the right to a writ of mandamus determined as of the time of the hearing rather than of the application?	006169.docx	LEGALEASE-00139167-LEGALEASE-00139168
Idea Nuova v. GM Licensing Grp., 617 F.3d 177	25T+151	In consulting agreement, marketer of novelty products and licensing consultant consented to confirmation of arbitrated disputes, even if agreement did not specifically state that arbitration was final and binding, thus precluding marketer's motion to vacate or modify four arbitration awards in favor of consultant related to alleged oral extension of agreement and resulting commissions due to consultant; parties agreed to arbitration with American Arbitration Association (AAA), so that AAA's rules, including requirement that parties consent to confirmation, were incorporated into agreement. 9 U.S.C.A. S 9.	Does a party to an American Arbitration Association (AAA) arbitration consent to judicial confirmation of final arbitral awards?	007618.docx	LEGALEASE-00139016-LEGALEASE-00139018
Fed. Power Comm'n v. Hope Nat. Gas Co., 320 U.S. 591	260+92.5(3)	Under the Natural Gas Act, the Federal Power Commission has no authority over the production or gathering of natural gas. Natural Gas Act, S 1(b), 15 U.S.C.A. S 717(b).	Does the Federal Power Commission have authority over the production or gathering of natural gas?	021639.docx	LEGALEASE-00139354-LEGALEASE-00139355
Suffield Bank v. Berman, 25 Conn. App. 369	307A+36.1	Defenses relating to mathematical calculation of mortgage debt need not be disclosed, but defenses that go to issue of liability for debt must be disclosed in timely manner. Practice Book of 1978, SS 206, 236, 367, 372, 374, 527.	Must defenses that go to the issue of the defendant liability for the debt be disclosed prior to trial?	030952.docx	LEGALEASE-00139139-LEGALEASE-00139140
In re Islamorada Fish Co. Texas, 319 S.W.3d 908	115+181	A defendant's net worth is relevant and discoverable when punitive damages may be awarded.	Is a defendant's net worth relevant and discoverable when punitive damages can be awarded?	Pretrial Procedure - Memo # 5018 - C - SS.docx	ROSS-003302893-ROSS-003302894
Ex Parte LKQ Birmingham, 159 So. 3d 766	413+2	An action brought under the workers' compensation laws is purely statutory in nature.	Is an action brought under the workers compensation laws purely statutory in nature?	048009.docx	LEGALEASE-00139329-LEGALEASE-00139330
Wilson v. United States, 77 Ct. Cl. 630	34+13.1(1)	The failure of Congress to make an appropriation for the statutory pay of an officer does not, of itself, preclude his right to recover.	Can the failure of Congress to make an appropriation for the statutory pay of an officer preclude their right to recover?	008584.docx	LEGALEASE-00139526-LEGALEASE-00139527
United States v. Shields, 999 F.2d 1090	63+3	Judge's issuing of judgment compelled or supported by law is no defense to taking bribe. 18 U.S.C.A. SS 1951, 1952.	Is issuing a judgment compelled or supported by law a defense to taking a bribe?	012025.docx	LEGALEASE-00139383-LEGALEASE-00139384
Hystad v. Indus. Comm'n, 389 N.W.2d 590	260+92.32(1)	When deviation from standard of uniform size spacing units on oil or gas pool is necessary to protect correlative rights, Industrial Commission must explain why deviation is necessary within context of right of each owner to have just and equitable share of common source of supply and duty of other owners not to damage or take undue proportion of oil or gas from that common source of supply. NDCC 28-32-13.	What are the minimum necessary findings to determine the extent of correlative rights in the context of prescribing the shape of spacing units?	021656.docx	LEGALEASE-00139379-LEGALEASE-00139380
In re Woskob, 305 F.3d 177	289+1006	Under Pennsylvania law, when dissolution of partnership occurs through operation of law and without the need for a judicial decree, the date of dissolution is the date of the first effective act of dissolution. 15 Pa.C.S.A. S 8353.	When is the date on which a dissolution of a partnership made effective?	Partnership - Memo 367 - SB.docx	ROSS-003291119-ROSS-003291120

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Life Care Centers of America v. Charles Town Associates Ltd. Partnership, 79 F.3d 496	289+1138(1)	Operations of business of limited partnership are left to general partner, who, unlike limited partners, is personally liable for operation of partnership.	Is the basic premise of a limited partnership that the general partners are personally liable for partnership obligations and limited partners are not?	Partnership - Memo 368 - SB.docx	LEGALEASE-00029273- LEGALEASE-00029274
Seibert v. Sears, Roebuck & Co., 45 Cal. App. 3d 1	307A+749.1	Pretrial conference order controls subsequent course of an action even where it is inconsistent with pleadings therein.	Does a pretrial order control where it is inconsistent with the pleadings?	028013.docx	LEGALEASE-00139488- LEGALEASE-00139489
Fawcett v. Altieri, 38 Misc. 3d 1022	307A+36.1	Discovery is permitted with respect to not only materials having to do with liability, but also to damages as well. McKinney's CPLR 3101(a).	Is discovery permitted with respect to materials that have to do with liability but also to damages as well?	031160.docx	LEGALEASE-00139555- LEGALEASE-00139556
Howell v. United States, 25 Ct. Cl. 288	34+8	An officer takes rank in his grade from the time when the law entitles him to do so, and not necessarily from the time when he is commissioned.	Does an officer take rank in his grade from the time the law entitles him to do so?	Armed Services - Memo 219 - SB.docx	ROSS-003301973-ROSS- 003301974
Gidden Motor Co. v. Johnston, 155 Miss. 328	83E+418	Nonnegotiable instruments which partake of nature of commercial paper are assignable by indorsement and delivery.	Are non-negotiable instruments which partake the nature of commercial paper assignable by endorsement and delivery?	Bills and Notes - Memo 398 - RK.docx	ROSS-003302010-ROSS- 003302011
Rebel v. Nat'l City Bank of Evansville, 598 N.E.2d 1108	266+1135	Taking out new note and mortgage for same debt upon same land would not discharge lien of first mortgage unless parties so intend.	What happens when a new note is taken for the same debt?	009546.docx	LEGALEASE-00140692- LEGALEASE-00140693
Farris v. Wells, 68 Ga. 604	83E+406	Where a note, draft or check is made payable to order, the indorsement of the payee is necessary to transfer the legal title to another. Without such indorsement, the transferee takes the paper as a mere chose in action, and to recover it must aver and prove the consideration.	Is the endorsement of the payee necessary to transfer legal title of a note?	009574.docx	LEGALEASE-00140472- LEGALEASE-00140473
Leiter v. Arnold, 114 Ga. App. 323	349A+9	Law existing prior to effective date of Uniform Commercial Code governed contract entered into prior to that date.	Does the Uniform Commercial Code apply to notes executed before the effective date of the Code?	009582.docx	LEGALEASE-00140520- LEGALEASE-00140521
Harry H. White Lumber Co. v. Crocker-Citizens Nat. Bank, 253 Cal. App. 2d 368	172H+622	Where checks were payable to two joint payees, and indorsement of first joint payee was forged on checks by second joint payee, and collecting bank paid the checks, and first joint payee sued collecting bank, applicable sections of Civil Code were those dealing with effect of forged signature and indorsement where instrument is payable to two or more persons, and not section dealing with discharge of negotiable instrument by any act which will discharge simple contract for payment of money, and section providing that obligation in favor of several persons is extinguished by performance rendered to any one of them, except in case of deposit made by owners in common, or in joint ownership. West's Ann.Civ.Code, SS 1475, 3104, 3122, 3200(4).	Can one indorse for others with the authority from others?	010261.docx	LEGALEASE-00140141- LEGALEASE-00140142
Cohen & Feldman v. Silbowitz, 146 Misc. 324	8.30E+76	Stopping payment should never be exercised in disregard of rights of innocent holder for value.	Can stopping payment on a check be exercised in disregard of the legal rights of innocent holder?	010340.docx	LEGALEASE-00139787- LEGALEASE-00139788
Linahan v. Linahan, 131 Conn. 307	83E+481	Notes negotiable in form could be transferred by assignment, either indorsed on them or embodied in a separate instrument.	Can notes negotiable in form be transferred by an assignment?	010422.docx	LEGALEASE-00140286- LEGALEASE-00140287
In re Jolly N, 122 B.R. 897	83E+481	Under New Jersey Uniform Commercial Code, check does not operate as assignment of funds until accepted by drawee bank. N.J.S.A. 12A:3-409(1).	When is a check operated as an assignment of funds?	010433.docx	LEGALEASE-00140386- LEGALEASE-00140387

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Discher v. Klapp, 124 Ind. App. 563	200+77(1)	Vacation of highways is not generally favored, and public rights therein must be divested by some manner as provided by law.	Is vacation of highways generally favored?	018661.docx	LEGALEASE-00140588- LEGALEASE-00140589
Schwaner v. Hayes, 142 Mo. App. 100	200+150	Under Sess. Laws 1901, pp. 234, 235 (Ann. St. 1906, SS 9436, 9441), permitting any taxpayer to pay the amount of his poll tax in money or labor, and providing that, if paid in labor, it should be performed when required by the commissioners, provided the county court may by order of record require all poll taxes to be paid in money, the road commissioner upon receiving notice that taxpayers desire to pay their poll tax in labor must fix the time for doing the work and thereafter warn him out, and, where that was not done so that a taxpayer was not given an opportunity to pay the tax by labor, it cannot be recovered from him; the county court not having ordered poll taxes paid in money.	Can payment of poll tax be paid either in money or labor?	018666.docx	LEGALEASE-00140356- LEGALEASE-00140357
Ledford v. Se. Motor Truck Lines, 29 Tenn. App. 675	200+183	Generally, a workman working on a highway is not guilty of contributory negligence for failure to keep a sharp lookout for approaching vehicles.	Should a workman on the highway have to lookout for vehicles?	018668.docx	LEGALEASE-00139773- LEGALEASE-00139774
Bond v. Green, 189 Va. 23	200+75	"Vacation" means termination of existence of highway by direct action of public authorities, as distinguished from loss or abandonment of public right by nonuser.	What is the distinction between the terms vacation and abandonment in dealing with statutes dealing with highways?	019009.docx	LEGALEASE-00140346- LEGALEASE-00140347
In re Advisory Opinion to the Governor, 98 Fla. 843	296+1	Pensions lawfully allowed by Legislature may be deemed legitimate state expenses. F.S.A.Const. art. 9, S 2.	Can pensions that are lawfully allowed by Legislature be deemed a legitimate state expenses?	022760.docx	LEGALEASE-00140490- LEGALEASE-00140491
City of Tampa v. State ex rel. Evans, 155 Fla. 177	296+2	The Legislature has power to grant pensions as a gratuity for public service rendered.	Does the Legislature have the power to grant pensions as a gratuity for public services rendered?	022800.docx	LEGALEASE-00140562- LEGALEASE-00140563
In re Estate of Lowe, 156 N.C. App. 616	307A+486	The grant or denial of a motion to withdraw an admission is discretionary with the trial court.	Is the grant or denial of a motion to withdraw an admission discretionary with the trial court?	029138.docx	LEGALEASE-00139753- LEGALEASE-00139754
McKell v. Collins Colliery Co., 46 W. Va. 625	307A+69.1	A deposition once taken cannot be retaken without the leave of the court, which will be granted when justice seems to require it.	Can a deposition once taken be retaken without the leave of the court?	029142.docx	LEGALEASE-00139793- LEGALEASE-00139795
Hartford Fire Ins. Co. v. Becton, 103 Tex. 236	307A+74	Under Rev.St.1895, art. 2284, as amended by Acts 1907, p. 186, c. 91, Rules of Civil Procedure, rule 196, requiring the officer, before whom a deposition has been taken, to "certify" on the envelope inclosing the deposition for its return that he in person deposited the same in the mail for transmission, the certificate indorsed on the envelope must be authenticated by the officer's seal. Error, 124 S.W. 474, 58 Tex.Civ.App. 578, refused.	"After being certified, is the deposition required to be inclosed in an envelope or wrapper sealed and directed to the clerk of the court in which the action is pending?"	032396.docx	LEGALEASE-00140362- LEGALEASE-00140363
Fisk v. Tank, 12 Wis. 276	307A+74	It is no objection to a deposition that it was reduced to writing by the deponent instead of the commissioner before whom it was taken.	Is it no objection to a deposition that it was reduced to writing by the deponent instead of the commissioner before whom it was taken?	032480.docx	LEGALEASE-00140558- LEGALEASE-00140559
In re Bloom Bus. Jets, 522 S.W.3d 764	95+141(1)	The party opposing enforcement of the forum-selection clause has a heavy burden of proof; if it does not carry it, the trial court must enforce the clause by dismissing the suit.	Does a party opposing enforcement of forum-selection clause have a heavy burden of proof?	032823.docx	LEGALEASE-00139837- LEGALEASE-00139838

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
St. Vrain Valley Sch. Dist. RE-1J v. Loveland by & through Loveland, 395 P.3d 751	307A+554	Questions of governmental immunity implicate subject matter jurisdiction and are determined in accordance with a motion to dismiss. Colo. R. Civ. P. 12(b)(1).	Do questions of governmental immunity implicate subject matter jurisdiction?	Pretrial Procedure - Memo # 5634 - C - SK.docx	ROSS-003288019-ROSS-003288020
Tallman Gulch Metro. Dist. v. Natureview Dev., 399 P.3d 792	307A+554	Determining whether there is immunity under the Colorado Governmental Immunity Act (CGIA) is a question of subject matter jurisdiction, to be decided pursuant to a motion to dismiss for lack of subject matter jurisdiction. Colo. Rev. Stat. Ann. S 24-10-101 et seq.; Colo. R. Civ. P. 12(b)(1).	Do questions of governmental immunity implicate subject matter jurisdiction?	032827.docx	LEGALEASE-00139845-LEGALEASE-00139846
Gray v. City of Opelika, 216 So. 3d 431	307A+682.1	Evidentiary matters may be freely submitted on a motion to dismiss that attacks jurisdiction. Rules Civ.Proc., Rule 12.	Can evidentiary matters be freely submitted on a motion to dismiss that attacks jurisdiction?	Pretrial Procedure - Memo # 5635 - C - SN.docx	ROSS-003288907-ROSS-003288908
Beam ex rel. Martha Stewart Living Omnimedia v. Stewart, 845 A.2d 1040	307A+36.1	In general, derivative plaintiffs are not entitled to discovery in order to demonstrate demand futility.	Are derivative plaintiffs entitled to discovery to demonstrate demand futility?	032868.docx	LEGALEASE-00139991-LEGALEASE-00139992
In re Bloom Bus. Jets, 522 S.W.3d 764	95+141(1)	The party opposing enforcement of the forum-selection clause has a heavy burden of proof; if it does not carry it, the trial court must enforce the clause by dismissing the suit.	Does the party opposing enforcement of the forum-selection clause have a heavy burden of proof?	Pretrial Procedure - Memo # 5683 - C - SK.docx	ROSS-003329399-ROSS-003329400
Allstate New Jersey Ins. Co. v. Cherry Hill Pain & Rehab Inst., 389 N.J. Super. 130	307A+554	Lack of standing may be raised as a failure to state a cause of action. R. 4:6-2(e).	Can lack of standing be raised as a failure to state a cause of action?	Pretrial Procedure - Memo # 5920 - C - NS.docx	ROSS-003289701-ROSS-003289702
Universal Forest Prod. E. Div. v. Morris Forest Prod., 558 F. Supp. 2d 893	366+2	Under Wisconsin law, right of subrogation never follows an actual primary liability, and there can be no right of subrogation in one whose duty it is to pay, or in one claiming under him against one who is secondarily liable, or not liable at all.	Are there any subrogation rights where equities are equal?	Subrogation - Memo # 1249 - C - RY.docx	ROSS-003288745-ROSS-003288746
Universal Forest Prod. E. Div. v. Morris Forest Prod., 558 F. Supp. 2d 893	366+2	Under Wisconsin law, right of subrogation never follows an actual primary liability, and there can be no right of subrogation in one whose duty it is to pay, or in one claiming under him against one who is secondarily liable, or not liable at all.	Are there any subrogation rights where equities are equal?	043518.docx	LEGALEASE-00139819-LEGALEASE-00139820
Federated Mut. Ins. Co. v. Woodstock '99 LLC, 190 F. Supp. 2d 324	366+35	Under New York law, sponsor's actual conduct in conveying requirement that its supplier waive subrogation against festival organizer and in voluntarily undertaking responsibility to review insurance obtained by supplier for festival was relevant to show agreed intention that contract with organizer impose duty on sponsor to take such actions.	Is the most persuasive evidence of the agreed intention of the parties in certain circumstances of waiver of subrogation is what the parties did when the circumstances arose?	043522.docx	LEGALEASE-00139879-LEGALEASE-00139880
Chestnut Sec. Co. v. Oklahoma Tax Comm'n, 125 F.2d 571	371+2005	The constitutional power of a state to tax is limited only by its jurisdiction over the objects of its asserted power.	Is the constitutional power of a state to tax limited only by its jurisdiction over the objects of its asserted power?	Taxation - Memo # 592 - C - ES.docx	ROSS-003291505-ROSS-003291506
Hennigan v. Atl. Ref. Co., 282 F. Supp. 667	386+11	Actions for trespass to land are primarily to redress invasions of the right to exclusive use and possession thereof.	What does an action for trespass to land primarily redress?	047418.docx	LEGALEASE-00140635-LEGALEASE-00140636

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Com. v. Mannos, 311 Mass. 94	63+3	Mayor's political friend, who arranged for payment of bribes from architects and engineers engaged in construction work for city, made collections from them, and turned over to mayor what was collected, was properly charged and convicted of bribery as a "principal" under statute providing for the punishment of a public officer who corruptly requests or accepts a bribe, even though friend was not a public officer. G.L.(Ter.Ed.) c. 268, S 8; c. 274, SS 2, 3 (M.G.L.A.).	"Should the person who participates in every essential step of bribery be considered as a principal, even if he is not a public official?"	012053.docx	LEGALEASE-00141852- LEGALEASE-00141853
Sugarman v. State, 173 Md. 52	63+3	Under statute providing that the offense of bribing an officer exists only when such officer is in the performance of his official duties, alleged attempt to bribe an officer while such officer was engaged in making an unlawful arrest did not constitute "bribery". Code Pub. Gen. Laws Supp.1935, art. 27, S 31.	Can a person be convicted of attempting to bribe an officer when the officer is not in the performance of his official duties?	012109.docx	LEGALEASE-00140796- LEGALEASE-00140797
United States v. Espy, 989 F. Supp. 17	63+6(1)	Indictment stated offense against Secretary of Agriculture for criminal violation of statute prohibiting gratuities to federal officials, even though there was no allegation of nexus between provision of thing of value and specific official act to be performed or committed. 18 U.S.C.A. S 201(c)(1)(B).	Does gratuity statute require nexus to be alleged by an indictment?	012124.docx	LEGALEASE-00141144- LEGALEASE-00141145
State v. Vallee, 136 Me. 432	63+1(1)	Generally, there need not be mutual intent on the part of both the giver and acceptor of a bribe, and it is sufficient that the person accused had the guilty intent. Rev.St.1930, c. 133, S 5.	Does there need to be a mutual intent between the bribe giver and bribe receiver before one individual can be found guilty of bribery?	012155.docx	LEGALEASE-00141957- LEGALEASE-00141958
Katz v. N. Kansas City Dev. Co., 223 Mo. App. 606	113+6	Custom must be proved uniform to bring notice thereof to individual engaged in a particular business.	"Must custom be shown to be general, uniform, and notorious to bring notice to individuals engaged in a particular business?"	Customs & Usage - Memo 134 - RK.docx	ROSS-003291010-ROSS- 003291011
Ex parte Weissinger, 247 Ala. 113	135+1	A person's "domicile" is that place in which his habitation is fixed without any present intention of removing, and it embraces the fact of residence and the intention to remain.	What does a person's domicile embrace?	014473.docx	LEGALEASE-00141073- LEGALEASE-00141074
In re Bycura, 540 B.R. 211	135+1	Under South Carolina law, party's "residence" is the place where he actually lives or has his home, his dwelling place or place of habitation, his abode, house where his home is, or dwelling house.	Is residence a person's dwelling place or place of habitation?	014478.docx	LEGALEASE-00141089- LEGALEASE-00141090
Reich v. Lopez, 858 F.3d 55	135+2	Owning property in forum does not alone establish domicile; one may have more than one residence in different parts of country or world, but person may have only one domicile.	Can a person have more than one residence in different parts of country or world?	014541.docx	LEGALEASE-00140955- LEGALEASE-00140956
Hinkel v. Weyerhaeuser Co., 6 Wash. App. 548	48A+309(4)	Instruction in action for personal injuries and damages arising from automobile accident which occurred on highway where smoke from slash burning on defendant's property had created a driving hazard that one driving through fog or smoke must exercise a very high degree of care and must exercise that degree of care and caution in passing through fog or smoke as a careful and prudent person would exercise under such circumstances did not establish a higher degree of care than the reasonable and prudent standards for operating a vehicle through fog or smoke.	What is the degree of care to be exercised while driving through fog?	019021.docx	LEGALEASE-00141535- LEGALEASE-00141536

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Pease v. Udall, 332 F.2d 62	260+5.1(2)	Secretary of the Interior had discretion to refuse to make any oil and gas lease of lands notwithstanding statute providing that first qualified applicant shall be entitled to lease without competitive bidding on lands not within any known geological structure of producing fields, and exercise of discretion by refusal to lease was not inconsistent with determination to sell leases under regulations relating to leasing of Indian lands. Mineral Lands Leasing Act, S 17 as amended 30 U.S.C.A. S 226; 25 U.S.C.A. SS 398, 398a.	"Does the Mineral Leasing Act leave to the Secretary, within his discretion, a determination as to what lands are to be leased?"	021139.docx	LEGALEASE-00140752- LEGALEASE-00140753
Hoyle v. Babbitt, 927 F. Supp. 1411	260+5.1(7)	Suspension of operation under federal coal lease can be granted at request of lessee or can be mandated by Secretary of Interior in his discretion when it is necessary to avoid environmental harm. Mineral Leasing Act, S 39, 30 U.S.C.A. S 209.	Could a suspension be granted in the Secretary's discretion when it is necessary to avoid an environmental harm.?	021164.docx	LEGALEASE-00140889- LEGALEASE-00140890
Houser v. Brown, 29 Ohio App. 3d 358	260+92.56	Duty to plug oil or gas well which is or becomes incapable of producing oil or gas in commercial quantities is a continuing duty of the owner of that well. R.C. S 1509.12.	Does a duty to plug attach once a well becomes incapable of producing in commercial quantities?	Mines and Minerals - Memo #112 - C - CSS.docx	ROSS-003291075-ROSS- 003291076
Mud Control Labs. v. Covey, 2 Utah 2d 85	260+97	An agreement to share losses is not a condition precedent to existence of a mining partnership.	Is an agreement to share losses a condition precedent to the existence of a mining partnership?	Mines and Minerals - Memo #128 - C - CSS.docx	ROSS-003289096-ROSS- 003289097
Lazarus v. Manufacturers Cas. Ins. Co., 267 F.2d 634	289+515	Within broad limits, partnership may choose any name it wishes, even that of an individual partner.	Can a partnership choose the name of an individual partner as the firm name?	022366.docx	LEGALEASE-00141975- LEGALEASE-00141976
Raiser v. Utah Cty., 409 F.3d 1243	170A+1686	More than a failure to meet deadlines is required to deny a party relief from an admission that was deemed to be made due to untimely response to a request for admissions. Fed.Rules Civ.Proc.Rule 36(b), 28 U.S.C.A.	Is more than a failure to meet discovery deadlines required to deny a party relief from an admission?	Pretrial Procedure - Memo # 3245 - C - PB.docx	ROSS-003302797-ROSS- 003302799
Dunham v. Roer, 708 N.W.2d 552	307A+723.1	There is a presumption in favor of granting continuances to allow sufficient time for discovery.	Is there a presumption in favor of granting continuances to allow sufficient time for discovery?	030611.docx	LEGALEASE-00141140- LEGALEASE-00141141
GeoChem Tech Corp. v. Verseckes, 929 S.W.2d 85	307A+723.1	In ruling on discretionary matter such as motion for continuance, trial court is entitled to take the entire procedural history of the case into account.	Should a trial judge be permitted to consider the entire history of the case in deciding whether or not good cause exists for granting a continuance?	Pretrial Procedure - Memo # 4293 - C - SJ.docx	LEGALEASE-00031120- LEGALEASE-00031121
N. Am. Acc. Ins. Co. v. Williamson, 118 Ill. App. 670	307A+74	Statute requiring certificate of official character of notary who takes a deposition does not require that certificate shall state that notary was authorized by laws of state where he resides to administer an oath. Smith-Hurd Stats. c. 51, S 30.	"In executing a commission to take the depositions of witnesses residing out of the state, is the certificate of the officer before whom the oath of the commissioner was taken sufficient evidence that he has such authority?"	Pretrial Procedure - Memo # 5229 - C - DHA.docx	ROSS-003289459-ROSS- 003289461
Ex parte Stiles, 136 Tex. 211	307A+63	The right to take the deposition of a witness depends entirely on the statutes which must be strictly complied with. Vernon's Ann.Civ.St. arts. 1, 3713, 3746; Rules of Civil Procedure, rules 182-215.	Must there be a strictly substantial compliance with the statute in taking depositions?	032523.docx	LEGALEASE-00142071- LEGALEASE-00142072
Cushman v. Wooster, 45 N.H. 410	307A+74	Under the requisition of our statute that in taking depositions, when the adverse party does not attend, a copy of the notice left with him, etc., shall be annexed to the certificate of the taking thereof, it is not sufficient to fold the notice with the deposition and inclose it in the same envelope, directed to the court.	Should the certificate stating the non-attendance of a party at the taking of the deposition be annexed to the certificate of the taking?	Pretrial Procedure - Memo # 5427 - C - CK.docx	ROSS-003288827-ROSS- 003288828

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Shoemaker v. Stiles, 102 Pa. 549	307A+74	Courts have power to make rules respecting the filing of depositions, and cannot be reversed for enforcing them.	Do courts have power to make rules respecting the filing of depositions?	032564.docx	LEGALEASE-00141702-LEGALEASE-00141703
Semmens v. Walters, 55 Wis. 675	307A+74	A deposition may be returned to the commissioner for correction by signing his name as commissioner, instead of with his official title.	"Can a deposition be returned to the commissioner for correction by signing his name as commissioner, instead of his official title?"	Pretrial Procedure - Memo # 5473 - C - SN.docx	ROSS-003289330-ROSS-003289331
State v. Kimball, 50 Me. 409	307A+74	The certificate of the justice of his official character is prima facie evidence of his qualification.	"Is affixture of name by the Justice of peace, in the certificate, as his official character a prima facie evidence of qualification to act in that capacity?"	032986.docx	LEGALEASE-00141561-LEGALEASE-00141562
S. Pac. R. Co. v. Royal, 23 S.W. 316	307A+74	Where neither the caption nor certificate of a deposition contains the title of the cause, a reference in the caption to the "annexed commission" is not sufficient to identify the case in which the deposition was taken.	"If the commission is not in the record, will a reference to the annexed commission be sufficient to identify the case in which the depositions were taken?"	Pretrial Procedure - Memo # 5736 - C - SB.docx	ROSS-003301533-ROSS-003301534
Celadon Trucking Servs. v. Martinez, 320 S.W.3d 377	2+1	If the impediment to the court's jurisdiction can be removed, then the court may abate proceedings to allow a reasonable opportunity for the jurisdictional problem to be cured.	"If a claim is not within a court's jurisdiction, and the impediment to jurisdiction cannot be removed, then should it be dismissed?"	032991.docx	LEGALEASE-00141606-LEGALEASE-00141607
Murray v. Univ. of N. Carolina at Chapel Hill, 782 S.E.2d 531	30+241	Court of Appeals lacked jurisdiction over state university's interlocutory appeal of order denying its motion to dismiss student's complaint alleging that university's sexual assault grievance procedure was unlawful; university raised sovereign immunity doctrine for the first time at the hearing on the motion and neither university's written motion nor its oral argument relied on rule governing failure to state a claim in connection with sovereign immunity defense, written motion cited rules governing dismissal for failure to state a claim and lack of subject matter jurisdiction but did not include rule governing lack personal jurisdiction, and trial court's order did not reference rule governing lack of personal jurisdiction. West's N.C.G.S.A. SS 1-277(a), 116-40.11(a); Rules Civ.Proc., Rule 12(b)(1, 2, 6), West's N.C. G.S.A. S 1A-1.	"If a court finds at any stage of the proceedings that it lacks jurisdiction over the subject matter of a case, must it dismiss the case for want of jurisdiction?"	033299.docx	LEGALEASE-00140756-LEGALEASE-00140757
In re C.M.C., 192 S.W.3d 866	307A+554	Without subject-matter jurisdiction, the trial court must dismiss the case.	"Without subject-matter jurisdiction, must the trial court dismiss the case?"	033348.docx	LEGALEASE-00140943-LEGALEASE-00140944
Moore v. McCullough, 6 Mo. 444	307A+726	That two continuances have been made in the same cause, and one of them at the instance of the party applying for a third, is no ground for a refusal of the application, when the materiality of the testimony is shown, and every degree of diligence that could be expected.	Can an application for continuance be refused when every degree of diligence could be expected?	Pretrial Procedure - Memo # 6098 - C - DHA.docx	ROSS-003289564-ROSS-003289565
Oregon Waste Systems v. Department. of Environmental Quality of State of Or., 511 U.S. 93	371+2005	States have broad discretion to configure their systems of taxation as they deem appropriate.	Do states have broad discretion to configure their systems of taxation as they deem appropriate?	045370.docx	LEGALEASE-00141376-LEGALEASE-00141377
First Union Nat. Bank of Florida v. Ford, 636 So. 2d 523	268+967(1)	Counties, as parts of state, are immune from state, municipal, or other special districts' attempts at taxation.	"Are counties immune from state, municipal, or other special districts' attempts at taxation?"	045382.docx	LEGALEASE-00141421-LEGALEASE-00141422

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Wells v. Malloy, 402 F. Supp. 856	371+2005	Power to tax is an inherent aspect of sovereignty and includes the power to enforce uniformly the collection of tax by any constitutional means; only requirement is that the means used be fair, reasonable and equitable.	Does the power to tax include the power to enforce uniformly the collection of tax by any constitutional means?	Taxation - Memo # 622 - C - SU.docx	ROSS-003288861-ROSS-003288862
Great Lakes Dredge & Dock Co. v. Charlet, 134 F.2d 213	371+2005	The power of a state to tax, as well as its power to govern men and things, will not be lightly stricken down by implication.	Can the power of a state to tax be lightly stricken down by implication?	Taxation - Memo # 634 - C - ES.docx	ROSS-003330252-ROSS-003330253
Bullock v. Marathon Oil Co., 798 S.W.2d 353	371+2005	Inherent in state's power to tax is state's freedom to select subjects of taxation.	Is the states freedom to select subjects of taxation inherent in the states power to tax?	045546.docx	LEGALEASE-00141807-LEGALEASE-00141808
Sadiku v. Aatronics Inc., 142 Idaho 410	413+2	Worker's Compensation Act is purely statutory, and benefits can be awarded only as provided in the Act. I.C. S 72-101 et seq.	Is workers compensation purely statutory and can benefits be awarded only as provided in the Act?	048112.docx	LEGALEASE-00141228-LEGALEASE-00141229
Grandt v. Douglas Cty., 14 Neb. App. 219	413+2	The right to and amount of recovery in workers' compensation proceedings are purely statutory.	Is the right to and amount of recovery in workers compensation proceedings purely statutory?	048118.docx	LEGALEASE-00141324-LEGALEASE-00141325
In re Gagnon, 147 N.H. 366	413+2	The rights and remedies provided by the Workers' Compensation Law are purely statutory.	Is it a settled position that the rights and remedies provided by the Workers' Compensation Law are purely statutory?	048167.docx	LEGALEASE-00142069-LEGALEASE-00142070
Medtronic AVE v. Advanced Cardiovascular Sys., 247 F.3d 44	25T+210	There is a presumption of arbitrability, and an order to arbitrate should not be denied unless it may be said with positive assurance that the arbitration clause is not susceptible of an interpretation that covers the asserted dispute.	"If the claims of arbitrability are plausible, does the interpretation of the contract have to be passed on to the arbitrator?"	007517.docx	LEGALEASE-00143220-LEGALEASE-00143221
Rogers, Burgun, Shahine & Deschler v. Dongsan Const. Co., 598 F. Supp. 754	25T+156	Fact that dispute under subcontract was to be arbitrated did not deprive district court of its authority to provide provisional remedies.	Does arbitration deprive the court of its authority to provide provisional remedies?	007658.docx	LEGALEASE-00143382-LEGALEASE-00143383
United States v. Sun-Diamond Growers of California, 526 U.S. 398	63+1(1)	To convict under federal bribery statute, there must be a quid pro quo, a specific intent to give or receive something of value in exchange for an official act, while illegal gratuity may constitute merely a reward for some future act that public official will take and may already have determined to take, or for a past act that he has already taken. 18 U.S.C.A. S 201(b)(1, 2), (c).	Is specific intent required for a bribery offense?	011219.docx	LEGALEASE-00142895-LEGALEASE-00142896
State v. Knight, 140 Ohio App. 3d 797	63+1(1)	Soliciting improper sexual relations may be construed as a "valuable thing," within meaning of bribery statute prohibiting public servants from soliciting or accepting for himself or another person any valuable thing or valuable benefit to corrupt or improperly influence him or another public servant or party official with respect to the discharge of his or the other public servant's or party official's duty. R.C. S 2921.02(B).	"In bribery, is soliciting improper sexual relations construed as a valuable thing?"	011648.docx	LEGALEASE-00142943-LEGALEASE-00142944
Ayala By & Through Ayala v. Joy Mfg. Co., 580 F. Supp. 521	260+92.5(1)	There is no private cause of action for violations of Mine Health and Safety Act. Federal Coal Mine Health and Safety Act of 1969, S 2 et seq., as amended, 30 U.S.C.A. S 801 et seq.	Is there a private cause of action for violations of the Mine Health and Safety Act?	021635.docx	LEGALEASE-00142140-LEGALEASE-00142141
Uhler v. Semple, 20 N.J. Eq. 288	289+801	There is no confidential relation between partners until the partnership is formed, and in the course of negotiations between an existing firm and a stranger, where the firm proposes to put in the old stock at a certain price, the maxim "caveat emptor" applies.	Are relations between partners confidential before the partnership is formed?	022432.docx	LEGALEASE-00143436-LEGALEASE-00143437
In re Stevens' Estate, 261 A.D. 48	296+2	A pension is given to a soldier by the United States government exclusively for his own benefit.	Is a pension given to a soldier by the United States government exclusively for his own benefit?	Pension - Memo 38 - SB.docx	ROSS-003289234

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In re Butler, 101 N.Y. 307	307A+723.1	It is not an abuse of discretion to deny an oral motion for continuance that is not reduced to writing.	Is it an abuse of discretion to deny an oral motion for continuance that is not reduced to writing?	030646.docx	LEGALEASE-00142971-LEGALEASE-00142972
Schindler v. Austwell Farmers Co-op., 829 S.W.2d 283	307A+726	Trial court did not abuse its discretion in denying debtor's third motion for continuance, which was requested on grounds of debtor's illness and lack of opportunity for debtor and counsel to adequately develop available defenses to creditor's action, inasmuch as record reflected that debtor's condition had improved since hearing on his second motion for continuance, which was also urged on illness grounds, and record further indicated that debtor had discharged his counsel and obtained new counsel two weeks before trial, despite his former attorney's warning that continuance would not likely be granted and despite creditor's warning that it would object to any motion for continuance based on inadequate preparation of counsel.	Did the court abuse its discretion in denying debtor's third motion for continuance?	Pretrial Procedure - Memo # 5413 - C - PC.docx	ROSS-003289515-ROSS-003289516
Thorpe v. Gelbwaks, 953 So. 2d 606	307A+554	A defendant contesting personal jurisdiction must file a motion to dismiss.	Must a defendant contesting personal jurisdiction file a motion to dismiss?	033457.docx	LEGALEASE-00143134-LEGALEASE-00143135
Dillion v. Mabbutt, 265 Neb. 814	307A+560	Language of statute providing for dismissal of unserved petitions is self-executing and mandatory. Neb.Rev.St. S 25-217.	Is language of statute providing for dismissal of unserved petitions self-executing and mandatory?	033749.docx	LEGALEASE-00143594-LEGALEASE-00143595
Bankers Mut. Ins. Co. v. Friedlander, 262 A.2d 606	307A+726	Where two continuances covering period of approximately a year had been granted in tenant's insurer's action to recover amount paid after fire, denial of third continuance to locate witness was not abuse of discretion.	Would the denial of third continuance be an abuse of discretion where plaintiff had the opportunity to make a full examination of defendant's records?	033827.docx	LEGALEASE-00142694-LEGALEASE-00142695
Durham v. D.C., 494 A.2d 1346	307A+746	Caution must be observed by trial court when it chooses to impose very severe sanction of dismissal for failure of a party to attend a pretrial conference. Civil Rule 16-II.	Must the trial court be cautious where it chooses to impose severe sanction of dismissal?	Pretrial Procedure - Memo # 6602 - C - SU.docx	ROSS-003289759-ROSS-003289760
Cokeley v. State, 87 Tex. Crim. 256	352H+186	Under indictment charging rape on woman mentally unsound, it was requisite for state to show: First, the act; and, second, mental unsoundness of the woman.	Does the state have to show that prosecutrix was mentally unsound at the time of intercourse?	Sex Offence - Memo 92 - RK.docx	ROSS-003290103-ROSS-003290104
Fleming v. State, 376 S.W.3d 854	92+4509(15)	Offense of aggravated sexual assault of victim under age 14 did not violate Due Process or Due Course of Law Clauses of United States and Texas Constitutions based on failure to require proof that defendant knew victim was under age 14 at time of sexual act; defendant had no fundamental right to mens rea element regarding victim's age, and statute was rationally related to State's legitimate objective of protecting children. U.S.C.A. Const.Amend. 14; Vernon's Ann.Texas Const. Art. 1, S 19; V.T.C.A., Penal Code S 22.021.	Is the State required to prove that the defendant knew the victims age?	043110.docx	LEGALEASE-00143472-LEGALEASE-00143473
Alaska S.S. Co. v. State, 31 Wash. 2d 328	371+2005	The taxing power of a state is one of its attributes of sovereignty and may be exercised at discretion of state subject to constitutional limitations. U.S.C.A.Const. art. 1, S 10, cl. 2.	Is the power to tax an essential attribute of sovereignty?	045277.docx	LEGALEASE-00142920-LEGALEASE-00142921
Redevelopment Agency v. Comm'n on State Mandates, 55 Cal. App. 4th 976	360+119	Goals of constitutional provisions pertaining to tax and government spending limitations are to protect California residents from excessive taxation and government spending. West's Ann.Cal. Const. Art. 13A, S 1 et seq.; Art. 13B, S 1 et seq.	What are the goals of constitutional provisions pertaining to tax and government spending limitations?	Taxation - Memo # 504 - C - SKG.docx	ROSS-003302261-ROSS-003302263

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Chestnut Sec. Co. v. Oklahoma Tax Comm'n, 125 F.2d 571	371+2005	The constitutional power of a state to tax is limited only by its jurisdiction over the objects of its asserted power.	Is constitutional power of a state to tax limited by its jurisdiction over objects of its asserted power?	Taxation - Memo # 644 - C - ES.docx	ROSS-003330256-ROSS-003330257
High Tide Seafoods v. State, 106 Wash. 2d 695	371+3249	If tax is imposed upon value of property, it may be a "property tax"; if levied upon privilege of doing business, it is an "excise tax."	"Is the tax levied upon privilege of doing business an ""excise tax""?"	Taxation - Memo # 656 - C - AP.docx	ROSS-003316764-ROSS-003316766
Dixie Greyhound Lines v. McCarroll, 22 F. Supp. 985	148+2.4	Even destruction of business by tax would not render it invalid or require compensation on such ground alone, as persons entering on business take such risk.	Can a tax be held invalid on the ground that it may destroy a business?	045590.docx	LEGALEASE-00142473-LEGALEASE-00142474
People ex rel. State Auditor v. Illinois Cent. R. Co., 119 Ill. 83	371+2300	Laws exempting property from taxation are strictly construed, and nothing will be held to come within the exemption which does not clearly appear to be so, and all reasonable intendments will be indulged in favor of the state.	Are all property presumed to be subject to taxation?	045600.docx	LEGALEASE-00142489-LEGALEASE-00142490
Kohl v. United States, 226 F.2d 381	371+2001	A tax imposed on property or income therefrom only by reason of its ownership is direct. U.S.C.A. Const. art. 1, SS 2, 9.	Is the tax imposed on property or income therefrom only by reason of its ownership is direct?	Taxation - Memo # 691 - C - NS.docx	ROSS-003331917-ROSS-003331918
United States v. 4,432 Mastercases of Cigarettes, More Or Less, 448 F.3d 1168	371+2060	An "ad valorem tax" describes a tax the size of which directly correlates to the value of the item taxed.	"Is an ad valorem tax"" defined by its method for calculating the size of the tax describes a tax the size of which directly correlates to the value of the item taxed?"	045718.docx	LEGALEASE-00142231-LEGALEASE-00142232
Livingston v. Town of Mt. Pleasant, 356 S.C. 35	371+2060	Normally, taxes are imposed on all property for the maintenance of the government, while assessments are imposed only on the property that is to be benefited.	"Are taxes normally imposed on all property for the maintenance of the government, while assessments are imposed only on the property that is to be benefited?"	Taxation - Memo # 748 - C - SHB.docx	ROSS-003303616-ROSS-003303617
Madera Production Co. v. Atlantic Richfield Co., 107 S.W.3d 652	401+5.1	Suit seeking net profits interest based on ownership of land is considered action on real property interest, meaning the suit must be filed where the property is located. V.T.C.A., Civil Practice & Remedies Code S 15.011.	Is a suit seeking net profits interest based on ownership of land an interest in land?	Venue - Memo 93 - JS.docx	LEGALEASE-00033325-LEGALEASE-00033326
Curtis Green & Clay Green v. Clark, 318 S.W.3d 98	413+2	Workers' compensation is a creature of statute, dependent on the legislature for its continuing existence.	"Is workers compensation a creature of statute, and is its continuing existence dependent on the legislature?"	048023.docx	LEGALEASE-00143338-LEGALEASE-00143340
Flyer Printing Co. v. Hill, 805 So. 2d 829	25T+121	Parties may agree to arbitrate statutory claims, including claims under Title VII, so long as the agreement furnishes an adequate mechanism for vindicating the claimant's statutory rights; however, when an arbitration agreement contains provisions that defeat the remedial purpose of the statute, the agreement is not enforceable. Civil Rights Act of 1964, S 701, as amended, 42 U.S.C.A. S 2000e; West's F.S.A. S 760.11.	Is an arbitration provision that defeats a federal statutes remedial purpose enforceable?	007684.docx	LEGALEASE-00144769-LEGALEASE-00144770
St. Mary's Med. Ctr. of Evansville v. Disco Aluminum Prod. Co., 969 F.2d 585	25T+182(1)	Waiver of right to arbitrate is grounds for federal court to refuse to enforce arbitration agreement. 9 U.S.C.A. S 2.	Is waiver of the right to arbitrate grounds for courts to refuse to enforce arbitration?	007730.docx	LEGALEASE-00144944-LEGALEASE-00144946
In re Lewis' Estate, 37 Pa. D. & C. 463	34+34.4(1)	Soldiers' and Sailors' Civil Relief Act is applicable to bankruptcy proceedings. Soldiers' and Sailors' Civil Relief Act of 1940, S 1 et seq., 50 App.U.S.C.A. S 501 et seq.	Is the Soldiers and Sailors Civil Relief Act applicable to bankruptcy proceedings?	008647.docx	LEGALEASE-00144411-LEGALEASE-00144412
Howard v. United States, 28 F. Supp. 985	34+56	A policy of liberalism permeates the entire structure of war risk insurance.	Does a policy of liberalism permeate the entire structure of war risk insurance?	008665.docx	LEGALEASE-00144641-LEGALEASE-00144642

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Haese, 162 F.3d 359	110+508(2)	Testimony of government's key witness was properly admitted, despite fact that he testified pursuant to a favorable plea agreement; statute prohibiting the giving, offering, or promising anything of value to witness for or because of his testimony was not violated by fact that witness' testimony was obtained in exchange for a favorable plea agreement. 18 U.S.C.A. S 201(c)(2).	Is there any violation of law when testimony of a witness is obtained in exchange for a favorable plea agreement?	Bribery - Memo #452 - C-JL.docx	ROSS-003288138-ROSS-003288139
United States v. Marks, 209 F.3d 577	63+1(1)	Prosecutor's offer of leniency in exchange for truthful testimony is not an illegal witness gratuity. 18 U.S.C.A. S 201(c)(2).	Is a prosecutor's offer of leniency in exchange for truthful testimony illegal?	011726.docx	LEGALEASE-00144533-LEGALEASE-00144534
People v. Palmer, 26 Ill. 2d 464	67+2	Gist of "burglary" is entry of building with felonious intent, and when entry and intent are shown, proof of specific items taken is not essential.	Does burglary require specific items to be taken?	Burglary - Memo 216 - SB.docx	ROSS-003290994-ROSS-003290997
Massey v. United States, 320 A.2d 296	67+3	An intent to steal or commit a crime at the time of entry is a requisite element of proof in burglary case. D.C.C.E. S 22-1801(a, b).	Is intent to steal at the time of entry required for burglary?	Burglary - Memo 222 - SB.docx	ROSS-003288978-ROSS-003288981
Alden Sign Co. v. Roblee, 121 Colo. 432	113+7	A uniform, notorious and reasonable trade custom or usage may be binding on party to contract, but trade custom which is unreasonable is not binding on person who does not expressly agree to be bound thereby.	Is an unreasonable trade custom binding on a person who does not expressly agree to be bound by the custom?	014239.docx	LEGALEASE-00143915-LEGALEASE-00143916
Vermilion Par. Sch. Bd. v. ConocoPhillips Co., 83 So. 3d 1234	317+55	State land set aside and dedicated for the use of public education was owned by the state, rather than by parish school board, where the management of such Section 16 land was vested by the state in local school board, including the authority to grant mineral leases on the land. LSA-R.S. 17:100.6, 30:151 et seq., 41:638.	For what use did the United States or federal government set aside and dedicate 16th (sixteenth) section lands?	021363.docx	LEGALEASE-00144037-LEGALEASE-00144038
Greer v. Shook, 503 S.W.3d 571	260+55(2)	Royalty interests in a mineral estate may be conveyed or reserved as a fixed fraction of total production, also known as a "fractional royalty interest," or as a fraction of the total royalty interest, also known as a "fraction of royalty interest" or a "floating" royalty interest; the floating royalty interest varies in accordance with the size of the landowner's royalty.	Can royalty interests be conveyed as a fractional royalty?	Mines and Minerals - Memo #253 - C - CSS.docx	LEGALEASE-00033787-LEGALEASE-00033788
Iowa Supreme Court Comm'n on the Unauthorized Practice of Law v. Sullins, 893 N.W.2d 864	302+49	A petition need not allege a specific legal theory, so long as it meets the fair notice requirement.	Should a petition allege a specific legal theory?	023504.docx	LEGALEASE-00143623-LEGALEASE-00143624
Rieff v. Evans, 630 N.W.2d 278	302+48	A pleading is sufficient if it apprises of the incident out of which the claim arose and the mere general nature of action. Rules Civ.Proc., Rule 69(b).	Is a pleading sufficient if it apprises the incident out of which the claim arose?	023506.docx	LEGALEASE-00143659-LEGALEASE-00143660
Bennett v. Mallinckrodt, 698 S.W.2d 854	302+11	Although a pleader need not allege evidentiary or operative facts, he must allege ultimate facts and cannot rely on mere conclusions. V.A.M.R. 55.04, 55.05.	Can a pleader rely on mere conclusions?	Pleading - Memo 423 - RMM.docx	ROSS-003288560-ROSS-003288561
Shockley v. Morgan, 103 Ga. 156	307A+74	It was proper to reject answers to interrogatories embracing questions which referred exclusively and in terms to an alleged account, when no account was attached to the interrogatories for exhibition to the witness; objection having been duly made in writing before the commission was issued.	Is it proper to reject answers to interrogatories embracing questions which referred exclusively and in terms to an account?	032687.docx	LEGALEASE-00144201-LEGALEASE-00144202

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Burrell v. State, 18 Tex. 713	110+614(1)	There being no statutory provision for a third continuance, whether it shall be granted or not must rest in the sound discretion of the court.	Can a third application for continuance be addressed to the sound discretion of the trial court?	Pretrial Procedure - Memo # 5763 - C - DHA.docx	ROSS-003288070-ROSS-003288071
Pac. Co. v. Johnson, 212 Cal. 148	371+2005	State may annex conditions to corporate franchise and require corporation to contribute to state revenues.	Can state annex conditions to corporate franchise towards contribution to state revenues?	033660.docx	LEGALEASE-00144123-LEGALEASE-00144124
Christian v. Lincoln Auto. Co., 403 Ill. App. 3d 1038	307A+560	An indication of diligence, for purposes of a motion to dismiss for failure to exercise reasonable diligence to obtain service, is a plaintiff's efforts to obtain service through an alias summons. Sup.Ct.Rules, Rule 103(b).	Can a plaintiff's efforts to obtain service through an alias summons be an indication of diligence?	033718.docx	LEGALEASE-00144435-LEGALEASE-00144436
Taylor v. Taylor, 20 Ill. 650	307A+746	Sanctions imposed for violations of a pretrial order must be just and appropriate. Vernon's Ann.Texas Rules Civ.Proc., Rule 166.	Must sanctions imposed for violations of a pretrial order be just and appropriate?	Pretrial Procedure - Memo # 6350 - C - MS.docx	LEGALEASE-00034150-LEGALEASE-00034151
Perez v. City of New Orleans, 173 F. Supp. 3d 337	313+153	A district court has broad discretion to dismiss an action for insufficient service of process. Fed. R. Civ. P. 12(b)(5).	Should a district court dismiss an action where service of process is insufficient?	034019.docx	LEGALEASE-00144403-LEGALEASE-00144404
Roberts v. Golden Crest Waters, 1 S.W.3d 291	307A+746	"Death-penalty sanction" is any sanction that adjudicates a claim and precludes the presentation of the merits of the case.	"Is a ""death-penalty sanction"" any sanction that adjudicates a claim and precludes the presentation of the merits of the case?"	034244.docx	LEGALEASE-00144765-LEGALEASE-00144766
Hanson v. Disotell, 106 So. 3d 345	307A+587	Alternative sanction less than dismissal with prejudice of property owner's suit against neighbor and others for owner's failure to prosecute action for conspiracy to interfere with owner's lease agreement did not serve best interests of justice; after Supreme Court issued mandate on interlocutory review in which it remanded with directions to set case for trial, property owner took no action for over four years until he filed motion to set trial, case had been on docket for 11 years, and although death of one witness might not have been sufficient to show prejudice, since his deposition had been preserved for record, defendants suffered prejudice from delay, specifically with potential alteration of physical evidence and witness' memories. Rules Civ.Proc., Rule 41(b).	Is dismissal for failure to comply with an order of the trial court appropriate only where there is a clear record of delay or contumacious conduct?	Pretrial Procedure - Memo # 6666 - C - SS.docx	LEGALEASE-00034317-LEGALEASE-00034318
Beasley v. Girtten, 61 So. 2d 179	307A+746	It is duty of counsel to attend pre-trial conference or to seek continuance for cause, and a motion to continue for cause should have the same consideration as any other motion. Rules of Common Law, rule 16, 30 F.S.A.; Equity Rules, rule 77, 31 F.S.A.	Is it the duty of counsel to attend a pre-trial conference or to seek continuance for a cause?	034387.docx	LEGALEASE-00144511-LEGALEASE-00144512
Kincaid v. Ames Dep't Stores, 283 Ill. App. 3d 555	307A+560	Immediate attempt to obtain service evinces diligence on part of plaintiff, for purposes of determining whether action should be dismissed. Sup.Ct.Rules, Rule 103(b).	Does an immediate attempt to obtain service evinces diligence on part of a plaintiff?	034447.docx	LEGALEASE-00144395-LEGALEASE-00144396
Becker v. Becker, 262 N.C. 685	307A+560	Delay of service beyond 120 days after filing is presumptively abusive, and may provide basis for dismissal of action. Rules Civ.Proc., Rule 49.	Is delay of service beyond 120 days after filing presumptively abusive?	Pretrial Procedure - Memo # 6759 - C - SHS.docx	ROSS-003288472-ROSS-003288473

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Hayes v. Smith, 58 Mont. 306	371+2005	The taxing power of the state does not extend beyond the territorial limits of the state, nor to all subjects actually within the confines of the state, and on which the state has the physical power to impose a tax, but is limited to subjects which have acquired a situs within the state for the purpose of taxation.	Is both the taxing power and the means necessary to exercise it exists in the state?	045752.docx	LEGALEASE-00144415- LEGALEASE-00144416
Alaska S.S. Co. v. State, 31 Wash. 2d 328	371+2005	The taxing power of a state is one of its attributes of sovereignty and may be exercised at discretion of state subject to constitutional limitations. U.S.C.A.Const. art. 1, S 10, cl. 2.	Which attributes is a state exercising in its right to tax?	045761.docx	LEGALEASE-00144468- LEGALEASE-00144469
Murray v. City of Charleston, 96 U.S. 432	371+2005	A state has power to levy taxes and to subordinate contracts to that power so far as it is unrestrained by constitutional limitation.	Does a state have the power to levy taxes and to subordinate contracts to that power?	045780.docx	LEGALEASE-00144566- LEGALEASE-00144567
Atchison, T. & S.F. Ry. Co. v. Collins, 294 F. 742	371+2005	A state has a wide range of power in imposing taxes, a power commensurate with its needs.	Does a state have a wide range of power that commensurate with its needs in imposing taxes?	045794.docx	LEGALEASE-00144598- LEGALEASE-00144600
Tyler v. Livonia Pub. Sch., 459 Mich. 382	413+2	Subject matter of workmen's compensation reposes within the control of the legislature. M.C.L.A. S 418.101 et seq.	Does the subject matter of workmens compensation repose within the control of the legislature?	048195.docx	LEGALEASE-00144243- LEGALEASE-00144244
Clark v. State Workmen's Comp. Com'r, 155 W. Va. 726	413+2	Right to workmen's compensation benefits is wholly statutory, and they may be paid to claimant only as authorized by law. Code, 23-4-1.	Are workmens compensation rights wholly statutory?	048197.docx	LEGALEASE-00144249- LEGALEASE-00144250
HDH Corp. v. Atl. Charter Ins. Co., 425 Mass. 433	413+2	Legislature intended that workers' compensation system supplant common law tort system as a means for compensating injured employees.	What was the Legislature intent for the workers compensation system?	048219.docx	LEGALEASE-00144315- LEGALEASE-00144316
United States v. Reaves, 126 F. 127	34+19	Rev.St. 1419, as amended by Act Feb. 23, 1881 (10 U.S.C.A. SS 5532, 5533), provides that minors between the ages of 14 and 18 years shall not be enlisted for naval service without the consent of their parents or guardians; and section 1420 (10 U.S.C.A. SS 5532, 5533), as amended by the same act, declares that no minor under the age of 14 years shall be enlisted in the navy service. Held, that where a minor under the age of 18 years enlisted in the navy without the consent of his father, then living, on the minor's fraudulent representation that he was over 21 years of age, such enlistment was not void as to the minor, but was voidable only, at the instance of his father.	For whose benefit is the written consent of a parent or guardian for enlistment of men under 21 required?	008604.docx	LEGALEASE-00146519- LEGALEASE-00146520
Katzer v. United States, 49 Ct. Cl. 294	34+26	Under the provisions of article 1751 of the Navy Regulations, paymasters' clerks are officers of the navy in the constitutional sense, so as to entitle them to the mileage allowed in Act March 3, 1901.	Are paymasters clerks officers of the Navy?	Armed Services - Memo 232 - JK.docx	ROSS-003301482
United States v. Townsend, 630 F.3d 1003	63+1(2)	Term "any thing of value," as used in the federal statute prohibiting bribes offered to state and local officials employed by agencies receiving federal funds, may include intangibles, such as freedom from jail and incremental increases in such freedom. 18 U.S.C.A. S 666(a)(1)(B).	Does the term thing of value include intangibles?	011142.docx	LEGALEASE-00146063- LEGALEASE-00146064

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People v. Gagnon, 21 Misc. 3d 594	210+357(28)	Indictment charging defendant with attempted bribing of a witness would be dismissed, where no evidence was presented to grand jury that defendant, in addition to suggesting to witness that he would drop civil charges against her in exchange for her dropping criminal assault and endangering charges against him, also sought an agreement by witness to either perjure or absent herself had charges gone to trial. McKinney's Penal Law S 215.05.	"Does a ""release agreement"" where one party agrees to drop criminal or civil charges constitute bribery of a witness?"	Bribery - Memo #861 - C - LB.docx	ROSS-003290969-ROSS-003290970
Sheriff, Clark Cty., Nev. v. Stevens, 97 Nev. 316	67+2	Offense of "burglary" is complete when house or other building is entered with specific intent to commit larceny or any felony therein. N.R.S. 205.060, subd. 1.	Does burglary involve intent to commit any felony?	Burglary - Memo 210 - JS.docx	ROSS-003327838-ROSS-003327841
State v. Ring, 554 N.W.2d 758	67+3	To obtain burglary conviction, state must prove defendant intended to commit some independent crime other than trespass after illegal entry into building. M.S.A. S 609.582.	Does burglary require proof of a crime other than trespass?	Burglary - Memo 213 - JS.docx	ROSS-003302418-ROSS-003302421
State v. Greer, 238 N.C. 325	67+41(4)	Evidence of any act of physical force, however slight, by which an obstruction to the entry of premises is removed is sufficient to prove the essential element of breaking as used in the statutory offense of burglary. Neb.Rev.St. S 28-507(1).	"Does a breaking, necessary to constitute the crime of burglary, require the act of a physical force?"	Burglary - Memo 242 - TB.docx	ROSS-003288289-ROSS-003288290
Pounds v. Jurgens, 296 S.W.3d 100	260+55(1)	The mineral estate in land may be severed from the surface estate not only by a grant of the minerals in a deed or reservation in a conveyance, but also by grant in a lease.	Can a lease sever the mineral estate from the surface?	021453.docx	LEGALEASE-00146081-LEGALEASE-00146082
Kimbrow v. Bullitt, 63 U.S. 256	289+650	Whenever there are written articles of agreement between partners, their power and authority, inter se, are to be ascertained and regulated by the terms of the written stipulations.	Can a partnership be regulated by the written articles of agreement?	022445.docx	LEGALEASE-00146325-LEGALEASE-00146326
Benfield v. Costner, 67 N.C. App. 444	302+11	North Carolina is a notice pleading state, and detailed fact pleading generally is no longer required.	Is detailed fact pleading required in a notice pleading state?	023532.docx	LEGALEASE-00145075-LEGALEASE-00145076
Smith v. Lewis, 669 S.W.2d 558	302+11	Pleader is required to state only ultimate facts, and it is not necessary to plead facts or circumstances by which ultimate facts will be established.	Is a pleader required to state the facts or circumstances by which the ultimate facts will be established?	Pleading - Memo 429 - RMM.docx	ROSS-003301144-ROSS-003301145
Porter v. Urbana-Champaign Sanitary Dist., 237 Ill. App. 3d 296	302+11	Complaint need not set out evidence plaintiff intends to present but only ultimate facts, particularly where small claims complaint is involved.	Is a complaint required to set out evidence?	023541.docx	LEGALEASE-00145444-LEGALEASE-00145445
In re Canales, 113 S.W.3d 56	302+386.1	The pleadings and the evidence must coincide; however, a variance between the pleadings and proof is fatal only if the divergence is substantial, misleading, and prejudicial.	Must the pleadings and the evidence coincide?	023557.docx	LEGALEASE-00146118-LEGALEASE-00146119
Badran v. Bertrand, 210 Neb. 747	302+380	Proof must correspond with allegations in pleadings and relief cannot be granted upon proof of case substantially different from case made in pleadings.	Must pleadings and proof correspond?	023561.docx	LEGALEASE-00146206-LEGALEASE-00146207
Freeman v. JI Specialty Servs., 505 S.W.3d 14	302+104(1)	A motion to dismiss due to a lack of subject-matter jurisdiction is the functional equivalent of a plea to the jurisdiction.	Is a motion to dismiss based on a lack of subject matter jurisdiction the functional equivalent of a plea to the jurisdiction?	Pretrial Procedure - Memo # 6486 - C - VA.docx	ROSS-003289707-ROSS-003289708
Stock v. Arnott, 415 Pa. Super. 113	307A+746	While attorneys for parties are obligated to appear at pretrial conferences, parties themselves are not unless they are specifically ordered to do so.	"While attorneys for parties are obligated to appear at pretrial conferences, are parties themselves not unless they are specifically ordered to do so?"	034043.docx	LEGALEASE-00145122-LEGALEASE-00145123

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Bartles v. Hinkle, 196 W. Va. 381	307A+44.1	In formulating appropriate sanction, court shall be guided by equitable principles; initially, court must identify alleged wrongful conduct and determine if it warrants sanction, and court must explain its reasons clearly on record if it decides sanction is appropriate.	"In formulating appropriate sanction, shall a court be guided by equitable principles?"	Pretrial Procedure - Memo # 6517 - C - NS.docx	LEGALEASE-00035387-LEGALEASE-00035388
Gautreaux v. Maya, 112 So. 3d 146	30+3259	The abuse of discretion standard of review applicable to a trial court's order dismissing a complaint for perpetrating a fraud on the court is somewhat narrowed, as it must take into account the heightened standard of clear and convincing evidence upon which an order of dismissal for fraud on the court must be based, and where the trial court does not receive live testimony, appellate deference is further narrowed, because the appellate court's review is based on the same record.	Should a dismissal for fraud on the court be supported by clear and convincing evidence?	034104.docx	LEGALEASE-00145326-LEGALEASE-00145327
Henry v. Shober, 566 N.W.2d 190	307A+560	Dismissal of action is required if there is unjustified, abusive delay in completing service.	"Is dismissal of action required if there is unjustified, abusive delay in completing service?"	Pretrial Procedure - Memo # 6536 - C - AP.docx	ROSS-003289732
Henry v. Shober, 566 N.W.2d 190	307A+560	If delay in obtaining service of process is presumptively abusive, it does not matter whether delay is intentional, and action is subject to dismissal if plaintiff fails to carry burden of proving that delay was justified. Rules Civ.Proc., Rule 49.	"If delay in obtaining service of process is presumptively abusive, does it not matter whether delay is intentional?"	034115.docx	LEGALEASE-00145352-LEGALEASE-00145353
Kiser v. Caudill, 210 W. Va. 191	307A+44.1	In formulating the appropriate sanction, a court shall be guided by equitable principles; initially, the court must identify the alleged wrongful conduct and determine if it warrants a sanction, and the court must explain its reasons clearly on the record if it decides a sanction is appropriate. Rules Civ.Proc., Rule 37(b).	Should a court explain reasons clearly on record if it decides sanction is appropriate?	034127.docx	LEGALEASE-00145419-LEGALEASE-00145420
City of El Paso v. Tom Brown Ministries, 505 S.W.3d 124	13+13	A court has no subject-matter jurisdiction over a claim made by a party who lacks standing to assert it.	Does a court have jurisdiction over a claim made by a plaintiff who lacks standing to assert it?	Pretrial Procedure - Memo # 6724 - C - KS.docx	ROSS-003289820-ROSS-003289821
City of El Paso v. Tom Brown Ministries, 505 S.W.3d 124	13+13	A court has no subject-matter jurisdiction over a claim made by a party who lacks standing to assert it.	Does a court have jurisdiction over a claim made by a plaintiff who lacks standing to assert it?	034400.docx	LEGALEASE-00145095-LEGALEASE-00145096
Annexation Ordinance F-2008-15 v. City of Evansville, 955 N.E.2d 769	307A+552	When a dispositive issue in a case has been resolved in such a way as to render it unnecessary to decide the question involved, the case will be dismissed.	Will a case be dismissed as moot when a dispositive issue in a case has been resolved?	034636.docx	LEGALEASE-00145152-LEGALEASE-00145153
McCormick v. Meyer, 582 N.W.2d 141	307A+560	It is clear that dismissal is required if there is an unjustified abusive delay in completing service.	Is it clear that dismissal is required if there is an unjustified abusive delay in completing service?	034678.docx	LEGALEASE-00145537-LEGALEASE-00145538
Ex parte McFry, 219 Ala. 492	307A+552	When case has become moot, court will decline to consider merits and dismiss case.	Will court decline to consider merits and dismiss case when case has become moot?	Pretrial Procedure - Memo # 6966 - C - BP.docx	LEGALEASE-00035617-LEGALEASE-00035618
Capaci v. Folmar Kenner, 43 So. 3d 1229	307A+581	Dismissal of a party's claim with prejudice pursuant to rule permitting involuntary dismissal for failure of plaintiff to prosecute or to comply with rules or any order of court is a drastic sanction that should be used only in extreme situations. Rules Civ.Proc., Rule 41(b).	Should a plaintiff's conduct mandate dismissal of claim with prejudice as sanctions?	034811.docx	LEGALEASE-00145887-LEGALEASE-00145888

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Mangiafico v. St., 767 So. 2d 1103	307A+563	It is not an abuse of discretion for a trial court to hold the parties to the terms of its order. (Per Brown, J., with three Justices concurring and two Justices concurring in the result.)	Is it not an abuse of discretion for a trial court to hold the parties to the terms of its order?	09473.docx	LEGALEASE-00096210- LEGALEASE-00096211
Samuels v. King Motor Co. of Fort Lauderdale, 782 So. 2d 489	307A+563	Dismissing a complaint as a sanction under rule pertaining to involuntary dismissal of action for failure to comply with orders of the court to amend a complaint to state a cause of action is generally unnecessary, as dismissal is always available where the complaint does not state a cause of action. West's F.S.A. RCP Rule 1.420(b).	Can action be subject to involuntary dismissal for failure to comply with any rule or order of court?	10831.docx	LEGALEASE-00094119- LEGALEASE-00094120
Butler v. Circulus, 557 S.W.2d 469	307A+563	Dismissal for failure to follow a court order presupposes an order lawfully made.	Does a dismissal for a failure to follow a court order presuppose an order lawfully made?	10035.docx	LEGALEASE-00095459- LEGALEASE-00095460
Nunez v. Burgos, 215 So. 3d 931	307A+581	Abandonment is meant not as a ground to dismiss actions on mere technicalities, but to dismiss actions which in fact clearly have been abandoned. La. Code Civ. Proc. Ann. art. 561.	Is abandonment not meant to dismiss actions on mere technicalities?	10041.docx	LEGALEASE-00095312- LEGALEASE-00095313
Pressey v. State, 114 N.W.2d 518	307A+563	Court may dismiss an action where plaintiff disobeys order concerning proceedings. R.R.S.1943, S 25-601.	Can a court dismiss an action where a plaintiff disobeys an order concerning proceedings?	035165.docx	LEGALEASE-00145804- LEGALEASE-00145805
Giraldo v. California Dep't of Corr. & Rehab., 168 Cal. App. 4th 231	307A+552	The policy behind a mootness dismissal is that courts decide justiciable controversies and will normally not render advisory opinions.	What is the policy behind a mootness dismissal?	035235.docx	LEGALEASE-00145920- LEGALEASE-00145921
Arbelovsky v. Ebasco Servs., 922 P.2d 225	307A+563	Trial court's discretion to order litigation-ending sanctions is severely limited; there must be willful noncompliance with court orders, extreme circumstances, or gross violations of rules of civil procedure. Rules of Civ.Proc., Rules 37, 41(b, e).	Is it within the discretion of the trial court to impose sanctions for noncompliance with court orders?	035249.docx	LEGALEASE-00145955- LEGALEASE-00145956
Serna v. O'Donnell, 70 F.R.D. 618	170A+2734	Dismissal of frivolous in forma pauperis actions is appropriate to prevent abuses of the processes of the court. 28 U.S.C.A. S 1915(d).	Is dismissal of frivolous action appropriate to prevent abuse of process?	035307.docx	LEGALEASE-00145663- LEGALEASE-00145664
Gonzalez v. Safe & Sound Sec. Corp., 185 N.J. 100	307A+563	A remedy of dismissal for a party's noncompliance with a court order is not favored if lesser sanctions will suffice.	Is a remedy of dismissal for a party's noncompliance with a court order not favored if lesser sanctions will suffice?	035420.docx	LEGALEASE-00145087- LEGALEASE-00145088
Boothe Fin. Corp. v. Lindley, 6 Ohio St. 3d 247	92+3560	States have great discretion in laying taxes; however, taxing power is subject to equal protection clause. U.S.C.A. Const.Amend. 14; Const. Art. 1, S 2.	Do states have great discretion in laying taxes?	10599.docx	LEGALEASE-00095143- LEGALEASE-00095144
Johnson v. City of Pendleton, 131 Or. 46	371+2005	State department exercising taxing power exercises purely governmental functions.	Do the state department exercising taxing power exercise purely governmental functions?	Taxation - Memo # 825 - C - CK.docx	ROSS-003304999-ROSS- 003305000
People of State of New York v. Latrobe, 279 U.S. 421	371+2005	State is not required by Constitution to adopt best possible taxation system.	Is the state required by Constitution to adopt the best possible taxation system?	Taxation - Memo # 827 - C - CK.docx	ROSS-003317279-ROSS- 003317280
Humana of Florida v. McKaughan on Behalf of McKaughan, 652 So. 2d 852	413+2	Workers' Compensation Act is limited statutory substitute for common-law rights and liabilities. West's F.S.A. S 440.11(1).	Is the Workers Compensation Act a limited statutory substitute for common law rights and liabilities?	048248.docx	LEGALEASE-00145597- LEGALEASE-00145598
Galion Iron Works & Mfg. Co. v. J.D. Adams Mfg. Co., 128 F.2d 411	25T+135	A right to arbitration arising out of mutual agreement may be waived, amended, or altered, like any other contractual right.	Is it possible to amend the right to arbitration which arose out of mutual agreement?	10731.docx	LEGALEASE-00094265- LEGALEASE-00094266
Bean v. United States, 7 F.2d 393	34+63	Contracts of war risk insurance not to be interpreted according to principles governing other contracts of insurance.	Should contracts of war risk insurance be interpreted according to the principles governing other contracts of insurance?	10751.docx	LEGALEASE-00094189- LEGALEASE-00094190

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State ex rel. Hood v. Louisville Tire Ctr., 204 So. 3d 1250	307A+581	The presence of the aggravating factors is not a requirement to dismissal for failure to prosecute, specifically when delay alone may suffice for a dismissal. Miss. R. Civ. P. 41(b).	Is the presence of the aggravating factors a requirement to dismissal for failure to prosecute?	10994.docx	LEGALEASE-00094083-LEGALEASE-00094084
United States v. Downing, 454 F.2d 373	110+429(1)	Defendant's selective service file and letter from commanding officer of induction station reporting defendant's failure to submit to United States attorney were admissible as official records, in prosecution for failure to submit to induction, although, with respect to the file, chief custodian was out of jurisdiction, and clerical assistant of local board, who testified for Government, had not been employed entire period of time during which entries were made, and she could not be certain personally that entries were accurate, where defendant had advised his local board that he would have nothing to do with the armed services. 28 U.S.C.A. SS 1732, 1733.	Are letters and entries in a board file admissible in a prosecution for knowingly failing to report?	008714.docx	LEGALEASE-00148004-LEGALEASE-00148005
People v. Jordan, 15 Ill. App. 3d 672	63+1(1)	A person's receipt of property is not alone enough to sustain a bribery conviction. S.H.A. ch. 38, S 33-1(d).	Is a person's receipt of property alone enough to sustain a bribery conviction?	09972.docx	LEGALEASE-00095110-LEGALEASE-00095111
Allard v. Com., 24 Va. App. 57	67+4	For structure to be subject of burglary, it must be permanently affixed to ground so as to become part of the realty at time of unlawful entry. Code 1950, S 18.2-90.	Does burglary require permanently fixed structures?	Burglary - Memo 256 - SB_57634.docx	ROSS-003279141-ROSS-003279145
Rodgers v. Harper & Moore, 170 Ala. 647	200+181	One placing objects within a highway calculated to frighten horses of ordinary gentleness is liable for injuries to a person caused by the frightening of a horse of ordinary gentleness.	When is one liable for frightening a horse in a highway?	Highway - Memo 191-ANM_57466.docx	ROSS-003285347-ROSS-003285348
Pease v. Johnson, 106 Cal. App. 2d 449	260+27(1)	Where claimant to mining lands had actual knowledge of another's prior location claimant could not avail himself of alleged technical defects in the making of the prior location.	"Can one who has actual knowledge of the claims of another to mineral land, in good faith, relocate the land because of technical defects in the making of the location?"	021582.docx	LEGALEASE-00147716-LEGALEASE-00147717
Smart v. White, 73 Me. 332	296+6	Rev.St. U. S. S 5485, 38 U.S.C.A. S 112, makes taking a greater fee than is fixed by statute for procuring a pension a high misdemeanor; and intent to do wrong or the practice of deceit or fraud is not an element of the offense. Held, that a pensioner can recover an illegal fee paid, although the attorney had no intent to commit a wrong and practiced no fraud or deceit.	Is taking a greater fee than which is fixed by statute for procuring a pension a high misdemeanor?	022836.docx	LEGALEASE-00147838-LEGALEASE-00147839
People v. Birch Sec. Co., 86 Cal. App. 2d 703	302+14	When facts are available from public records, it is ordinarily improper to allege such facts on mere information and belief.	Is it improper to allege facts on mere information and belief?	Pleading - Memo 447 - RMM_57496.docx	ROSS-003296191-ROSS-003296192
Hart Properties v. Slack, 159 So. 2d 236	302+36(1)	Litigants are bound by allegations of their pleadings, and admissions contained in pleadings as between parties are accepted as facts without necessity of supporting evidence.	Are the parties bound by the allegations of their pleadings?	023584.docx	LEGALEASE-00147706-LEGALEASE-00147707
Bland Indep. Sch. Dist. v. Blue, 34 S.W.3d 547	302+104(1)	A plea to the jurisdiction is a dilatory plea, the purpose of which is to defeat a cause of action without regard to whether the claims asserted have merit.	Is a plea to the jurisdiction a dilatory plea?	Pleading - Memo 458 - RMM_58006.docx	ROSS-003294678-ROSS-003294679
Nunez v. Burgos, 215 So. 3d 931	307A+590.1	Once abandonment has occurred, for the purpose of a motion to dismiss based on abandonment, action by the plaintiff cannot breathe new life into the suit. La. Code Civ. Proc. Ann. art. 561.	"Once abandonment has occurred, can action by the plaintiff breathe new life into the suit?"	034975.docx	LEGALEASE-00147670-LEGALEASE-00147671
Viesel v. Republic Ins. Co., 665 So. 2d 1221	307A+590.1	Notice of intent to take deposition constitutes "step" in prosecution of action for purposes of provision of Code of Civil Procedure governing abandonment of action. LSA-C.C.P. art. 561.	"Does the notice of intent to take deposition constitute a ""step"" in the prosecution of an action?"	Pretrial Procedure - Memo # 7485 - C - CK_57524.docx	ROSS-003294320-ROSS-003294321

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Cristino v. Bur. of Workers' Comp., 2012-Ohio-4420	307A+681	Because affirmative defenses typically rely on matters outside the complaint, they normally cannot be raised in a motion to dismiss for failure to state a claim. Rules Civ.Proc., Rule 12(B)(6).	Do affirmative defenses rely on matters outside the complaint?	10129.docx	LEGALEASE-00095351-LEGALEASE-00095352
Harris Cty. v. Gambichler, 479 S.W.3d 514	307A+690	A dismissal for want of prosecution is not a determination on the merits, and therefore dismissal with prejudice in such circumstances is improper. Tex. R. Civ. P. 165a(1).	Is a dismissal for want of prosecution a determination on the merits?	Pretrial Procedure - Memo # 7556 - C - BP.docx	LEGALEASE-00037239-LEGALEASE-00037240
Shulver v. Slocum, 566 So. 2d 1089	307A+590.1	Statute on abandonment of action is to be liberally interpreted, and any action or step taken to move case toward judgment should be considered. LSA-C.C.P. art. 561.	Is the statute on abandonment of action to be liberally interpreted?	11076.docx	LEGALEASE-00094244-LEGALEASE-00094245
Allied Gas & Chem. Co. v. Federated Mut. Ins. Co., 365 N.W.2d 26	307A+590.1	Effect of a continuance is merely to hold dismissal in suspension on certain conditions which, if not met, will make dismissal automatic. Rules Civ.Proc., Rule 215.1.	Is the effect of a continuance merely to hold dismissal in suspension on certain conditions?	11190.docx	LEGALEASE-00094561-LEGALEASE-00094562
Felo v. Ochsner Med. Ctr.-Westbank, 182 So. 3d 417	307A+581	Article governing abandonment of an action is to be liberally construed in favor of maintaining a plaintiff's suit; abandonment is not meant to dismiss actions on mere technicalities, but to dismiss actions which in fact clearly have been abandoned. LSA-C.C.P. art. 561.	"Is abandonment meant to dismiss actions on mere technicalities, or to dismiss actions which in fact clearly have been abandoned?"	Pretrial Procedure - Memo # 7753 - C - PC.docx	ROSS-003300113-ROSS-003300114
Louisiana Dep't of Transp. & Dev. v. Bayou Fleet, 37 So. 3d 1066	307A+581	Abandonment is not meant as a ground to dismiss actions on mere technicalities; it is a ground to dismiss actions which in fact clearly have been abandoned. LSA-C.C.P. art. 561.	"Is abandonment meant to dismiss actions on mere technicalities, or to dismiss actions which in fact clearly have been abandoned?"	11232.docx	LEGALEASE-00094095-LEGALEASE-00094096
McBride v. Hopewell, 428 A.2d 1198	307A+590.1	Word "action" in rule of procedure which allows court, on its own motion, to dismiss any action for want of prosecution at any time more than two years after last docket entry showing action taken by plaintiff other than motion for continuance is broad enough to encompass all interlocutory orders in lawsuit, including nonfinal adjudication of liability. Rules of Civil Procedure, Rule 41(b)(1).	"When is the word ""action"" broad enough?"	11236.docx	LEGALEASE-00094137-LEGALEASE-00094138
Graves v. State Bd. of Pharmacy, 188 Kan. 194	307A+552	Trial court had no authority to enter any judgment other than dismissal of action which had become moot.	"Does the court have the authority to enter any judgment other than dismissal of an action, which had become moot?"	036153.docx	LEGALEASE-00147265-LEGALEASE-00147266
Kunin v. Forman Realty Corp., 21 Ill. App. 2d 221	307A+552	When issue presented is of substantial public interest, a suit will not be dismissed because of mootness.	Will a suit be dismissed because of mootness when issue presented is of substantial public interest?	11325.docx	LEGALEASE-00094643-LEGALEASE-00094644
Crawford Supply Co. v. Schwartz, 396 Ill. App. 3d 111	307A+561.1	The phrase "affirmative matter," in statute that allows for dismissal where the claim asserted is barred by affirmative matter avoiding the legal effect of or defeating the claim, encompasses any defense other than a negation of the essential allegations of the plaintiff's cause of action. S.H.A. 735 ILCS 5/2-619(a)(9).	"Would a defendant's compliance with the controlling statute be an ""affirmative matter"" warranting dismissal of the complaint?"	Pretrial Procedure - Memo # 7890 - C - SK.docx	LEGALEASE-00037691-LEGALEASE-00037692
Huch v. Charter Commc'ns, 290 S.W.3d 721	307A+561.1	A motion to dismiss based on an affirmative defense may be sustained if the defense is irrefutably shown by the petition.	When can a motion to dismiss based on an affirmative defense be sustained?	036315.docx	LEGALEASE-00147618-LEGALEASE-00147619
Phelps v. Union Bank & Tr. Co., 225 Ala. 238	371+2063	Inherent power of state to collect taxes on property within its jurisdiction and on domestic concerns is attribute of sovereignty.	Do states have sovereign attribute in imposing taxes for domestic purposes?	11427.docx	LEGALEASE-00094007-LEGALEASE-00094008
Bosch v. Busch Dev., 777 P.2d 431	413+2102	Statutory employer who has not been required to pay workers' compensation benefits does not enjoy immunity from negligence suit by worker. U.C.A.1953, 35-1-42(2), (3)(b), (5), 35-1-60, 35-1-62.	Can a worker sue a statutory employer who has not been required to pay workers compensation benefits?	11468.docx	LEGALEASE-00094647-LEGALEASE-00094648

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Robinson v. Food Serv. of Belton, 415 F. Supp. 2d 1221	25T+182(1)	Waiver of arbitration rights requires unequivocal demonstration of intent to waive.	Does waiver of arbitration rights require an unequivocal demonstration of intent to waive?	007903.docx	LEGALEASE-00148972-LEGALEASE-00148973
Witherell v. Ela, 42 N.H. 295	83E+755	The indorser of a bill or note in full, or in blank, when it is returned to him, may strike out his indorsement and maintain an action on it in his own name.	Can an indorsement of a note when returned to the owner after protest be strike out by the owner and maintain an action in his own name?	Bills and Notes- Memo 456-IS_57867.docx	ROSS-003294061
Gregory's v. Haan, 545 N.W.2d 488	8.30E+264	"Extension of credit" means to make or renew loan of money or any agreement to forbear enforcing repayment of such loan.	Does extension of credit mean to renew a loan?	Bills and Notes- Memo 619-IS_57887.docx	ROSS-003282835-ROSS-003282836
In re Long, 353 B.R. 1	266+1421	Under Massachusetts law, as between assignee and maker of mortgage note, neither consideration nor notice to maker was essential to valid assignment.	"Is consideration or notice to the maker, essential to an assignment between assignee and the maker of the note?"	010599.docx	LEGALEASE-00148386-LEGALEASE-00148387
Bank of Italy Nat. Tr. & Sav. Ass'n v. Symmes, 118 Cal. App. 716	8.30E+06	Negotiable Instruments Law, since it covers entire subject, must control if applicable. Civ.Code, S 3082 et seq.	Does Negotiable Instruments Law control in all cases to which it is applicable?	Bills and Notes -Memo 691-DB_58200.docx	ROSS-003278473
City of Rockland v. Johnson, 267 A.2d 382	200+80	At common law, the public acquires only an easement in land taken for establishment of highway.	Does the public only acquire an easement in land taken for establishment of highway?	019069.docx	LEGALEASE-00148434-LEGALEASE-00148435
Marin Cty. v. Superior Court of Marin Cty., 53 Cal. 2d 633	200+80	All roads committed to care of a county belong, ultimately, to all people of state.	Do all roads committed to care of a county belong ultimately to all people of the state?	Highways -Memo 254-DB.docx	LEGALEASE-00038370-LEGALEASE-00038371
Shell Oil Co. v. Bd. of Comm'rs of Pontchartrain Levee Dist., 336 So. 2d 248	260+49	Constitutional prohibition against divestiture of mineral rights on property sold by the state equally prohibits the acquisition of those mineral rights by others by the running of prescription against the state. LSA-Const. art. 4, S 2; LSA-C.C. arts. 3474, 3478 et seq.	Does the Constitutional prohibition against the alienation of minerals by the state equally prohibit the acquisition of these minerals by others?	021197.docx	LEGALEASE-00148292-LEGALEASE-00148293
Tarrant Cty. Water Control & Imp. Dist. No. One v. Haupt, 854 S.W.2d 909	260+73.1(6)	Right to minerals carries with it right to enter and extract them, and all others such incidents thereto as are necessary to be used for getting and enjoying them.	Does the right to minerals carry with it the right to enter and extract them?	021537.docx	LEGALEASE-00148662-LEGALEASE-00148663
Reed v. Consol. Feldspar Corp., 71 S.D. 189	260+68(1)	A mine lessee who has agreed to pay lessor royalties need not extract ore at a loss.	Is a lessee who has agreed to pay lessor royalties required to extract ore at a loss?	021595.docx	LEGALEASE-00148097-LEGALEASE-00148098
Wiesenthal v. Goff, 63 Idaho 342	260+29.1	Unpatented mining claims are "property" in highest sense of such term, which may be bought, sold and conveyed and will pass by descent. 30 U.S.C.A. S 26.	Is a mining claim a property?	021618.docx	LEGALEASE-00148211-LEGALEASE-00148212
U.S. v. Jackson, 904 F. Supp. 118	110+627.6(3)	Defendants indicted on charges relating to alleged plot to ship weapons to Laos in order to facilitate overthrow of government were entitled to discovery of evidence relating to United States' overt or covert military planning or operations with respect to Laos from 2005 through 2007; "at peace" requirement under Neutrality Act constituted element of offense upon which government bore burden of proof at trial, and thus sought information would be both material to preparation of defense and potentially exculpatory. 18 U.S.C.A. S 960; Fed.Rules Cr.Proc.Rule 16, 18 U.S.C.A.	Is at peace an element of offence under Neutrality Act?	Neutrality Laws - Memo 10- ANM_57998.docx	ROSS-003279934-ROSS-003279935

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U.S. v. Jackson, 904 F. Supp. 118	110+627.6(3)	Defendants indicted on charges relating to alleged plot to ship weapons to Laos in order to facilitate overthrow of government were entitled to discovery of evidence relating to United States' overt or covert military planning or operations with respect to Laos from 2005 through 2007; "at peace" requirement under Neutrality Act constituted element of offense upon which government bore burden of proof at trial, and thus sought information would be both material to preparation of defense and potentially exculpatory. 18 U.S.C.A. S 960; Fed.Rules Cr.Proc.Rule 16, 18 U.S.C.A.	Who has to prove the at peace element of an offence under Neutrality Act?	021749.docx	LEGALEASE-00148502-LEGALEASE-00148503
McCleery v. Thompson, 130 Pa. 443	289+671	A judgment confessed by one partner in the firm name for a firm debt, though void against the others, is good against the partner confessing it; under it partnership goods may be taken in execution; otherwise if the judgment be confessed by a retiring partner after dissolution.	Will a judgment confessed by one partner in the firm name be void against the non-assenting partners?	022503.docx	LEGALEASE-00148958-LEGALEASE-00148959
In re M.M. Winkler & Associates, 190 B.R. 272	51+3372.13	Under certain circumstances, fraud may be imputed from one partner to another in context of bankruptcy dischargeability proceeding. Bankr.Code, 11 U.S.C.A. S 523(a)(2)(A).	Can fraud be imputed from one partner to another?	Partnership - Memo 474 - JK_58159.docx	ROSS-003282940-ROSS-003282941
F.V. Const. Corp. v. Cmty. Bank of Florida, 106 So. 3d 1012	302+358	To constitute a sham pleading, it must be inherently false and based on plain or conceded facts clearly known to be false.	Are sham pleadings those pleadings which are inherently false?	023618.docx	LEGALEASE-00148747-LEGALEASE-00148748
Holder v. Orange Grove Med. Specialties, P.A., 54 So. 3d 192	30+3206	Appellate court may uphold a dismissal with prejudice for want of prosecution when there is: (1) a record of dilatory or contumacious conduct by the plaintiff, and (2) a finding by appellate court that lesser sanctions would not serve the interests of justice; additional "aggravating factors" or actual prejudice may bolster the case for dismissal, but are not requirements.	"Can the presence of an aggravating factor, serve to bolster or strengthen the case for a dismissal?"	Pretrial Procedure - Memo # 7591 - C - RF_57799.docx	ROSS-003294522-ROSS-003294523
Sheen v. The Time Inc. Magazine Co., 817 So. 2d 974	307A+590.1	Not every document filed in a case qualifies as record activity, for purposes of rule governing dismissal of actions for failure to prosecute. West's F.S.A. RCP Rule 1.420(e).	Will not every document filed in a case qualify as record activity?	036098.docx	LEGALEASE-00148095-LEGALEASE-00148096
In re Merv Properties, 539 B.R. 516	101+2404(1)	Under Kentucky law, the adverse interest exception, providing that knowledge of an agent is not imputed to the principal when it is clear that the agent would not communicate the fact in controversy to the principal, is not applicable when the company actually benefits from the transaction in question.	What is Adverse Interest Exception?	Principal and Agent - Memo 127 - KC_58041.docx	ROSS-003295554
State of Or. By & Through State Forester v. United States, 308 F.2d 568	411+7	Action by State of Oregon and nonprofit corporation against United States to recover amount expended to extinguish forest fire alleged to have been negligently caused by agents and employees of Forest Service of United States was not action for money or damages for injury or loss of property within Tort Claims Act and could not be maintained under Tort Claims Act. ORS SS 477.002-477.071; 28 U.S.C.A. S 1346(b).	Do expenses incurred by states in fighting forest fires come under statutes like Tort Claims Act or The Federal Tort Claims Act?	Woods and Forest - Memo 76 - ANM_58051.docx	ROSS-003297042-ROSS-003297043

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United Marine Mut. Indem. Ass'n v. Marshall, 510 F. Supp. 34	413+2	Whole theory of Longshoremen's and Harbor Workers' Compensation Act is to provide the injured workman with certain and absolute benefits in lieu of common-law damages. Longshoremen's and Harbor Workers' Compensation Act, SS 1 et seq., 4-9, 32, 33 U.S.C.A. SS 901 et seq., 904-909, 932.	What is the whole theory of the Worker's Compensation Act?	048395.docx	LEGALEASE-00148298-LEGALEASE-00148299
People v. Snowburger, 113 Mich. 86	178+1.5	It is competent for the Legislature, under the police power, to provide for the protection of the public health by making it an offense punishable by fine and imprisonment to sell adulterated food or drink, irrespective of the seller's knowledge of the adulteration.	Whether knowledge needs to be proved for an offence to sell adulterated milk?	006570.docx	LEGALEASE-00149947-LEGALEASE-00149948
Hernandez v. Dep't of Air Force, 498 F.3d 1328	34+115(7)	Provisions for benefits to members of the Armed Services are to be construed in the beneficiaries' favor.	Should provisions for benefits to members of the Armed Services be construed in the beneficiaries' favor?	Armed Services - Memo 334 - RK_58607.docx	ROSS-003278558-ROSS-003278559
Ex parte Burson, 615 S.W.2d 192	34+101	Veterans Administration benefits, unlike air force disability retirement benefits, are not divisible or assignable; they are not property. 38 U.S.C.A. S 3101.	Are Veterans Administration (VA) benefits divisible property?	Armed Services - Memo 337 - RK_58610.docx	ROSS-003294761-ROSS-003294762
de Rodulfa v. United States, 461 F.2d 1240	92+4244	Veterans' benefits are gratuities and establish no vested rights in recipients and benefits may be withdrawn by Congress at any time and under any conditions Congress may impose.	Are Veterans' benefits gratuities?	Armed Services - Memo 338 - RK_58611.docx	ROSS-003284120-ROSS-003284121
Whitlock v. Bank of Maryville, 612 S.W.2d 481	172H+517	"Certificate of deposit" is written acknowledgment by bank or banker of receipt of sum of money on deposit which bank or banker promises to pay to depositor, to order of depositor, or to some other person or to his order, and no particular form is necessary to constitute certificate of deposit, provided essential characteristics are present.	What is a Certificate of Deposit (CD)?	009663.docx	LEGALEASE-00149690-LEGALEASE-00149691
Zier v. E. Acceptance Corp., 61 A.2d 106	8.30E+05	Purpose of Uniform Negotiable Instruments Law is to facilitate negotiation of commercial paper.	Is the purpose of Uniform Negotiable Instruments Law to facilitate the negotiation of commercial paper?	010612.docx	LEGALEASE-00149151-LEGALEASE-00149152
In re Burm, 554 B.R. 5	8.30E+200	Under Massachusetts law, a promissory note is nothing more than a written contract for the payment of money, subject to the fundamental rules governing contract law.	Is promissory note a contract?	Bills and Notes- Memo 732-IS_58520.docx	ROSS-003325962-ROSS-003325963
Spurgin v. Denton Cty. Nat. Bank, 235 S.W. 970	8.30E+08	The Uniform Negotiable Instrument Act held not applicable to notes which were executed and had matured long before the act became effective.	Can the Uniform Negotiable Instrument Act be applied on a note or check executed prior to the passing of the Act?	010657.docx	LEGALEASE-00149439-LEGALEASE-00149440
Liberty Loan Corp. of Eunice v. Lavine, 324 So. 2d 481	83E+426	Instruments, which are originally order paper but subsequently become bearer paper by blank endorsement, are converted back to order paper if they are specially endorsed. LSA-R.S. 7:40.	Can an indorsement convert order paper into bearer paper?	010966.docx	LEGALEASE-00149487-LEGALEASE-00149488
Grimes v. Fremont Gen. Corp., 933 F. Supp. 2d 584	172H+33	A standard lender-borrower relationship, without more, is not the kind of special relationship that supports a claim of negligent misrepresentation.	Is the lender borrower relationship a kind of relationship that supports a claim of negligent misrepresentation?	014123.docx	LEGALEASE-00149865-LEGALEASE-00149867
State v. Pyritz, 90 Or. App. 601	210+1005	Demurrer to criminal charges on constitutional grounds is sustainable if statute is vague or overbroad on its face.	Is a demurrer on constitutional grounds sustainable if the statute is vague or overbroad on its face?	Disorderly Conduct- Memo 54- PR_58527.docx	ROSS-003278616-ROSS-003278617
Thomas v. Leonard Truck Lines, 7 So. 2d 753	156+3(1)	A pleader is not "estopped" by judicial allegations which have neither deceived nor damaged anyone.	Is a pleader estopped by judicial allegations which have neither deceived nor damaged anyone?	Estoppel - Memo #9 - C - CSS_58267.docx	ROSS-003310221-ROSS-003310222

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
U.S. v. Jackson, 904 F. Supp. 118	110+627.6(3)	Defendants indicted on charges relating to alleged plot to ship weapons to Laos in order to facilitate overthrow of government were entitled to discovery of evidence relating to United States' overt or covert military planning or operations with respect to Laos from 2005 through 2007; "at peace" requirement under Neutrality Act constituted element of offense upon which government bore burden of proof at trial, and thus sought information would be both material to preparation of defense and potentially exculpatory. 18 U.S.C.A. S 960; Fed.Rules Cr.Proc.Rule 16, 18 U.S.C.A.	Who decides whether the prosecution has carried its burden of proving that the United States is at peace?	021720.docx	LEGALEASE-00149909- LEGALEASE-00149910
Host v. BNSF Ry. Co., 460 S.W.3d 87	302+20	It is perfectly proper for a plaintiff to plead and to submit alternative theories for a single injury.	Is it proper for a plaintiff to plead alternative theories for a single injury?	023632.docx	LEGALEASE-00149535- LEGALEASE-00149536
Jenkins v. Tucker, 18 So. 3d 265	307A+581	Aggravating factors bolster a case for dismissal for want of prosecution, but they are not required even when dismissal is with prejudice. Rules Civ.Proc., Rule 41(b).	Does aggravating factors bolster a case for dismissal but are not required even when dismissal is with prejudice?	Pretrial Procedure - Memo # 7992 - C - SU_58351.docx	ROSS-003282372-ROSS-003282373
Sears Mortg. Corp. v. Rose, 134 N.J. 326	308+1	Agency relationship is created when one party consents to have another act on its behalf, with principal controlling and directing acts of agent.	Is consent important to form agency relationship?	041392.docx	LEGALEASE-00149591- LEGALEASE-00149592
In re Riemer, 82 F.2d 162	51+2954.1	"Taxes" are not "debts," within Bankruptcy Act, but are imposts levied according to law to raise money for support of government, and their payment is governed by statute giving taxes priority (Bankr.Act S 64 as amended, 11 U.S.C.A. S 104).	Are taxes levied to raise money for the support of the government?	045893.docx	LEGALEASE-00149197- LEGALEASE-00149198
Educ. Films Corp. of Am. v. Ward, 282 U.S. 379	371+2001	Nature of tax as regards question of validity must be determined by its operation, rather than by particular descriptive language applied to it.	Should the nature of a tax be determined by its operation or descriptive language?	045926.docx	LEGALEASE-00149364- LEGALEASE-00149365
H.E.S. v. J.C.S., 175 N.J. 309	3.77E+06	The stalking statute was intended to intervene in repetitive harassing or threatening behavior before the victim has actually been physically attacked. N.J.S.A. 2C:12-10.	What was the stalking statute intended to intervene in?	"Threats, Stalking, and Harassment - Memo #11 - C - LB_58567.docx"	ROSS-003320159-ROSS-003320160
Com. v. Tizer, 454 Pa. Super. 1	3.77E+11	Terroristic threats statute is not designed to penalize spur-of-the-moment threats that arise out of anger in course of dispute. 18 Pa.C.S.A. S 2706.	Is the terroristic threats statute designed to penalize spur-of-the-moment threats?	047078.docx	LEGALEASE-00149589- LEGALEASE-00149590
Com. v. Ferrer, 283 Pa. Super. 21	3.77E+10	Elements of the offense of terroristic threats are: a threat to commit a crime of violence, communicated with intent to terrorize or with reckless disregard of the risk of causing such terror. 18 Pa.C.S.A. S 2706.	When does a person commit the crime of terroristic threats?	"Threats, Stalking, and Harassment - Memo #16 - C - LB_58572.docx"	ROSS-003294639-ROSS-003294640
Idaho Sporting Cong. v. U.S. Forest Serv., 843 F. Supp. 1373	411+7	Appeals Reform Act (ARA) was not self implementing; rather, National Forest Service was expected and required to implement ARA through administrative rulemaking. Forest and Rangeland Renewable Resources Planning Act of 1974, S 14, as amended, 16 U.S.C.A. S 1612.	Is Forest Service required to implement the Appeals Reform Act (ARA) through administrative rulemaking?	047563.docx	LEGALEASE-00149686- LEGALEASE-00149687
Downie v. Kent Prod., 122 Mich. App. 722	413+2	Workers' compensation system is wholly creature of statute and court is not free to redraw statute because of change in tort concepts. M.C.L.A. S 411.1 et seq.	What are courts free to do regarding workers compensation?	048374.docx	LEGALEASE-00149245- LEGALEASE-00149246

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Broos v. Portec, 376 N.W.2d 688	413+63	Workers' compensation statutes in effect on date employee sustains disabling injury governed both his rights to compensation and extent of his employer's liability.	Are the provisions of the Workmen's Compensation Law fixed as to interested parties at the time the employment begins?	Workers Compensation - Memo #548 - C - ANC_58930.docx	ROSS-003295292-ROSS-003295293
R.A. Brown & Co. v. Chancellor, 61 Tex. 437	83E+675	In Act March 20, 1848, requiring three days of grace, etc., a proviso limited its effect to contracts between merchants and their factors and agents. Act Jan. 11, 1862, struck out such proviso, and required three days of grace to be allowed on "all bills of exchange and promissory notes assignable and negotiable by law." Held, that a note payable on demand is not entitled to days of grace, and suit lies thereon without previous demand.	Are days of grace allowed to bills payable on demand?	009999.docx	LEGALEASE-00150218-LEGALEASE-00150219
Dolan v. Fairbanks Capital Corp., 930 F. Supp. 2d 396	172H+1341	TILA requires creditors to clearly and accurately disclose all the material terms of a credit transaction. Truth in Lending Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.	Does the TILA require creditors to disclose all material terms?	013971.docx	LEGALEASE-00150550-LEGALEASE-00150551
St. Breux v. U.S. Bank, Nat. Ass'n, 919 F. Supp. 2d 1371	172H+1385	If the master servicer for a consumer loan discloses to the consumer in layman's terms that it is indeed the master servicer, it need not use the magical legal words "master servicer" in order to comply with the Truth in Lending Act (TILA) disclosure provision requiring a loan servicer, in response to a consumer obligor's request, to identify the owner or master servicer for the obligation. Truth in Lending Act, S 131(f)(2), 15 U.S.C.A. S 1641(f)(2).	Is it necessary for the servicer to use the magic word master servicer?	013979.docx	LEGALEASE-00150580-LEGALEASE-00150581
Kelsey v. District of Columbia, 85 F.Supp.3d 327	141E+861	The IDEA was designed to open the door of public education to handicapped children on appropriate terms and not to guarantee any particular level of education once inside. Individuals with Disabilities Education Act S 601 et seq., 20 U.S.C.A. S 1400 et seq.	What is the IDEA designed to do?	Education - Memo #116 - C - BR_58733.docx	ROSS-003291949-ROSS-003291950
K's Merch. Mart v. Northgate Ltd. P'ship, 359 Ill. App. 3d 1137	156+14	In an estoppel certificate, the signer is certifying the course of performance has not produced any defaults.	"In an estoppel certificate, does the signer certify the course of performance has not produced any defaults?"	Estoppel - Memo #36 - C - CSS_59025.docx	ROSS-003280076-ROSS-003280077
Kennedy v. Missouri Atty. Gen., 922 S.W.2d 68	302+48	Petition must contain allegations of fact in support of each essential element of cause pleaded.	Should the petition state allegations of fact in support of each essential element of the cause pled?	036810.docx	LEGALEASE-00150131-LEGALEASE-00150132
Holder v. Orange Grove Med. Specialties, P.A., 54 So. 3d 244	307A+583	Trial courts have the inherent authority to dismiss cases for want of prosecution as a means of controlling the court's docket and ensuring the orderly expedition of justice.	"Is a failure to prosecute, as grounds for dismissal, considered on a case-by-case basis?"	036814.docx	LEGALEASE-00150160-LEGALEASE-00150161
Simmons v. Abruzzo, 49 F.3d 83	170A+1741.3	District court has power to dismiss complaint for failure to comply with court order, treating noncompliance as failure to prosecute. Fed.Rules Civ.Proc.Rule 41(b), 28 U.S.C.A.	Can a claim be dismissed for a failure to comply with a court order?	Pretrial Procedure - Memo # 8324 - C - AC_58838.docx	ROSS-003279490-ROSS-003279491
Johnson v. Preferred Prof'l Ins. Co., 91 A.3d 994	307A+622	The standard a plaintiff must meet at the motion to dismiss stage is low.	Is the standard a plaintiff must meet at the motion to dismiss stage low?	Pretrial Procedure - Memo # 8536 - C - SHS_59215.docx	ROSS-003292383-ROSS-003292384
Looney v. State, 336 Ga. App. 882	3.77E+10	A defendant need not have the immediate ability to carry out the threat to violate statute governing crime of terroristic threats. West's Ga.Code Ann. S 16-11-37(a).	Does a defendant need to have an immediate ability to carry out a threat in order to violate the statute criminalizing terroristic threats?	046829.docx	LEGALEASE-00150298-LEGALEASE-00150299

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State v. Smith, 10 R.I. 258	3.77E+10	A communication constitutes a threat, as an element of the offense of making terroristic threats, if, in context, it would have a reasonable tendency to create apprehension that its originator will act according to its tenor. M.S.A. S 609.713.	When does a communication or statement constitute a threat?	046847.docx	LEGALEASE-00150450-LEGALEASE-00150451
Haddock v. Quinn, 287 S.W.3d 158	25T+182(2)	Both delay and the extent of the moving party's participation in judicial proceedings are material factors in assessing prejudice, for purposes of determining whether a party has waived arbitration.	What are the material factors involved in assessing a plea of prejudice?	007920.docx	LEGALEASE-00151383-LEGALEASE-00151385
Stoltz v. Aurora Loan Servs., 194 So. 3d 1097	83E+426	An indorsement in blank is sufficient to prove that the person in possession of the note is its holder.	Is indorsement in blank sufficient to prove that the person in possession of the note is its holder?	Bills and Notes- Memo 1055- ANM_59393.docx	ROSS-003280155-ROSS-003280156
Galbreath v. Wallrich, 45 Colo. 537	38+97	Assignment of a nonnegotiable contract does not carry a warranty that it will be performed; but assignee merely impliedly warrants it is what it purports to be, and hence, where nonnegotiable contracts to furnish ties to a railroad were assigned, the mere fact that it subsequently canceled them and refused to allow assignees to fill them did not impose any liability on assignors.	Does the assignee of a nonnegotiable contract impliedly warrant that it is genuine?	010732.docx	LEGALEASE-00151216-LEGALEASE-00151217
Lieberman v. Cappellino, 96 N.Y.S.2d 546	83E+481	"Assignment" is generally used to signify the transfer of non-negotiable instruments, while "indorsement" is used to signify a transfer of negotiable instruments. Rules of Supreme Court of Kings County, rule 7; Judiciary Law, S 149.	"Is assignment generally used to signify the transfer of nonnegotiable instruments, whereas indorsement is used to signify a transfer of negotiable instruments?"	010782.docx	LEGALEASE-00151258-LEGALEASE-00151259
Household Fin. Corp. v. Buck, 107 Ill. App. 3d 628	172H+1347	Disclosure of delinquency charges section of consumer loan contract must be presented in a way that borrower can comprehend easily and must be intelligible to the average consumer. Truth in Lending Regulations, Regulation Z, S 226.1 et seq., 15 U.S.C.A. foll. S 1700; Truth in Lending Act S 102 et seq., 15 U.S.C.A. S 1601 et seq.; Ill.Rev.Stat.1977, ch. 74, SS 66(i, k), 70(b).	Should the disclosure be presented in a way that the borrower can comprehend easily?	Consumer Credit -Memo 112-DB_59231.docx	ROSS-003292896
Brown v. Payday Check Advance, 202 F.3d 987	172H+1522	Statutory damages were not available under Truth in Lending Act (TILA) for lender's failure to emphasize the typeface of "finance charge" and "annual percentage rate," omission of descriptive explanations, and inclusion of non-mandatory disclosures in required disclosure portion of payday loan forms, and, thus, failure to establish actual injury precluded any recovery by borrowers under TILA; statutory damages were available "only" for violations of enumerated subsections and rules, and TILA subsections violated by lender were not among them. Consumer Credit Protection Act, SS 122(a), 128(a)(8), (b)(1), 130(a), 15 U.S.C.A. SS 1632(a), 1638(a)(8), (b)(1), 1640(a).	Are statutory damages available only for violations of enumerated subsections and rules?	Consumer Credit -Memo 119-PR_59235.docx	ROSS-003319341
Holm v. Montgomery, 62 Wash. 398	200+89	Since the public has only as easement of use in a highway, and the fee rests in the abutting owner, who may make such use of the land within the highway as will not interfere with its use by the public, such owner may use the highway on which to maintain ditches for the benefit of his land, provided he does so without creating a nuisance or interfering with its use as a highway.	Does the public have an easement of use in a public street or highway while the fee rests in the owners of the abutting property?	Highways -Memo 60 - DB_59347.docx	ROSS-003292562-ROSS-003292563
Arcade Steam Laundry v. Bass, 159 So. 2d 915	302+20	One may plead two or more statements of claim alternatively in one count or in separate counts. 30 F.S.A. Rules of Civil Procedure, rule 1.8(f, g); Fed.Rules Civ.Proc. rule 10(b), 28 U.S.C.A.	Can one plead two or more statements of a claim alternatively in one count?	023688.docx	LEGALEASE-00151333-LEGALEASE-00151334

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Carlson v. Hannah, 6 N.J. 202	308+92(1)	The power of an agent to bind his principal is limited to such acts as are within his actual or apparent authority.	Can an agent bind his principal for acts within his authority?	041459.docx	LEGALEASE-00151262-LEGALEASE-00151263
Kasson v. Noltner, 43 Wis. 646	308+92(1)	A principal is responsible for the act of his agent when he has either given the agent authority to do the act, or justified the party dealing with the agent in believing that the latter had such authority.	Can a principal be responsible for the act of his agent if he has given the authority?	041468.docx	LEGALEASE-00151315-LEGALEASE-00151316
Walker v. President & Fellows of Harvard Coll., 82 F. Supp. 3d 524	141E+1166	An entering student forms a contractual relationship with her university, and a disciplinary code can be part of that contract.	Can the university disciplinary code be part of the contract with the students?	016715.docx	LEGALEASE-00151480-LEGALEASE-00151481
Xiaolu Peter Yu v. Vassar Coll., 97 F. Supp. 3d 448	141E+1166	In New York, relationship between university and its students is contractual in nature, and college is contractually bound to provide students with the procedural safeguards that it has promised.	A college is contractually bound to provide students with the procedural safeguards that it has promised?	016717.docx	LEGALEASE-00151478-LEGALEASE-00151479
Austin v. Albany Law Sch. of Union Univ., 38 Misc. 3d 988	141E+1166	The relationship between an institution of higher education and its students is contractual, rather than fiduciary, in nature.	"Is the relationship between an institution of higher education and its students fiduciary, in nature?"	Education - Memo # 204 - C - KS_60318.docx	ROSS-003298086-ROSS-003298087
Bologna Bros. v. Morrissey, 154 So. 2d 455	8.30E+12	Obligation of endorser or accommodation party is governed by lex loci contractus.	Is the obligation of an endorser or accommodation party governed by lex loci contractus?	008985.docx	LEGALEASE-00151600-LEGALEASE-00151601
Leavings v. Mills, 175 S.W.3d 301	83E+401	A note may be transferred even if it is not indorsed by the transferee; in that case, the transferee acquires whatever rights the transferor had in the note, but he does not become the holder. V.T.C.A., Bus. & C. S 3.201.	Is endorsement by the transferee necessary for a note to be transferred?	Bills and Notes - Memo 633 - RK_59537.docx	ROSS-003283340-ROSS-003283341
Rachbach v. Cogswell, 547 F.2d 502	172H+1561	Section of the Truth in Lending Act providing that obligor who exercises right to rescind is not liable for any finance or other charge does not preclude court from doing equity, and no abuse of discretion was shown in the imposition of interest as an equitable condition to the right of rescission of mortgage contract where the borrower had had the benefit of the use of the loan proceeds. Truth in Lending Act, S 125(b) as amended 15 U.S.C.A. S 1635(b).	Is an obligor liable for finance or other charges when exercising the right to rescind?	013878.docx	LEGALEASE-00151556-LEGALEASE-00151557
Wilson v. Cty. of Orange, 881 So. 2d 625	307A+561.1	Dismissal should not be granted on the basis of an affirmative defense, except when the face of the complaint is sufficient to demonstrate the existence of that defense.	Should a dismissal be granted on the basis of an affirmative defense?	037447.docx	LEGALEASE-00151739-LEGALEASE-00151740
In re Custody of G.J., 796 N.E.2d 756	307A+680	A motion to dismiss tests the legal sufficiency of the claim, not the facts that support it.	"Does a motion to dismiss test the legal sufficiency of the claim, not the facts that support it?"	Pretrial Procedure - Memo # 8783 - C - KS_59782.docx	ROSS-003280633-ROSS-003280634
Palestroni v. Jacobs, 10 N. J. Super. 266	275+142	It is against policy of law to receive affidavits of jurors to show or explain reasons or methods of jurors or any of them in giving or consenting to verdict or what was put into it.	Is it against policy of law to receive affidavits of jurors?	Affidavits - Memo 35 - _11Hw8s3UIj1zwnluZDJcr o704rRQwH7sv.docx	ROSS-000000168-ROSS-000000169
Leavings v. Mills, 175 S.W.3d 301	83E+401	A note may be transferred even if it is not indorsed by the transferee; in that case, the transferee acquires whatever rights the transferor had in the note, but he does not become the holder. V.T.C.A., Bus. & C. S 3.201.	Can a note be transferred without an indorsement?	009726.docx	LEGALEASE-00152578-LEGALEASE-00152579

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In re Sabertooth, 443 B.R. 671	83E+335	Promissory notes were not "negotiable instruments" under Pennsylvania law where they were subject to other rights and obligations which were stated in other loan documents, making the notes conditional. 13 Pa.C.S.A. S 3106(a)(3).	When a note is subject to rights and obligations is it negotiable?	010697.docx	LEGALEASE-00152584-LEGALEASE-00152585
Gidden Motor Co. v. Johnston, 155 Miss. 328	83E+418	Nonnegotiable instruments which partake of nature of commercial paper are assignable by indorsement and delivery.	Are nonnegotiable instruments which partake of nature of commercial paper assignable?	010747.docx	LEGALEASE-00152435-LEGALEASE-00152436
Harry H. White Lumber Co. v. Crocker-Citizens Nat. Bank, 253 Cal. App. 2d 368	172H+622	Where checks were payable to two joint payees, and indorsement of first joint payee was forged on checks by second joint payee, and collecting bank paid the checks, and first joint payee sued collecting bank, applicable sections of Civil Code were those dealing with effect of forged signature and indorsement where instrument is payable to two or more persons, and not section dealing with discharge of negotiable instrument by any act which will discharge simple contract for payment of money, and section providing that obligation in favor of several persons is extinguished by performance rendered to any one of them, except in case of deposit made by owners in common, or in joint ownership. West's Ann.Civ.Code, SS 1475, 3104, 3122, 3200(4).	"Should all indorse , when there are two or more payees?"	010754.docx	LEGALEASE-00152467-LEGALEASE-00152468
Meyers v. Nicolet Rest. of De Pere, 843 F.3d 724	172H+1705	Customer did not suffer any injury-in-fact from restaurant's violation of Fair and Accurate Credit Transactions Act (FACTA), in which restaurant printed expiration date of customer's credit card on his receipt, and thus customer lacked Article III standing to sue restaurant under FACTA; customer never suffered any concrete harm because restaurant printed his card's expiration date, customer discovered violation immediately, nobody else ever saw receipt, and printing of a card's expiration date, without more, would not heighten risk of identity theft. U.S. Const. art. 3, S 2, cl. 1; Consumer Credit Protection Act S 605, 15 U.S.C.A. S 1681c(g)(1).	Does failure to truncate a credit cards expiration date on receipt lead to a risk of identity theft?	Consumer Credit - Memo 125-IS_60072.docx	ROSS-003280350-ROSS-003280351
Jordan v. Montgomery Ward & Co., 442 F.2d 78	172H+1573	Authority to enforce compliance with credit advertising requirements of Truth in Lending Act is relegated to administrative agencies. Truth in Lending Act, SS 108, 141-145, 15 U.S.C.A. SS 1607, 1661-1665.	Can credit advertising requirements be relegated?	013779.docx	LEGALEASE-00152418-LEGALEASE-00152419
Telles v. Dewind, 140 A.D.3d 1701	129+107	Conduct does not have to take place in public in order for a person to be found guilty of disorderly conduct, so long as the person recklessly creates a risk of a public disturbance. McKinney's Penal Law S 240.20(1).	Can a person be held guilty of disorderly conduct if he causes public inconvenience?	Disorderly Conduct-Memo 81-PR_60080.docx	ROSS-003280704-ROSS-003280705
Appeal of City of Nashua, 138 N.H. 261	371+2632	In tax abatement cases before State Board of Tax and Land Appeals, municipality must disclose its preferred equalization ratio; if it employs its own uniform ratio to discount properties' fair market values to assessed values, municipality must make good-faith offering of that ratio, as well as methodology by which it computed ratio. RSA 75:1, 75:8.	Is there a constitutional mandate to assess all taxpayers in a town at the same proportion of fair market value of the property?	018328.docx	LEGALEASE-00152726-LEGALEASE-00152727
Wade v. Moody, 255 Ark. 266	200+79.1	Once color of title to a road was established by adverse possession of the public, it became incumbent on landowner to show abandonment.	Who has the burden of showing abandonment when title by adverse possession is established?	Highways - Memo 236 - RK.docx	LEGALEASE-00041924-LEGALEASE-00041925

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Phipps v. United States, 126 Fed. Cl. 674	200+79.1	Under Iowa law, there is a presumption that once a highway is shown to exist, it continues to exist, and any abandonment must be proven by clear and satisfactory evidence.	Is there a presumption that once a highway is shown to exist it continues to exist?	Highways - Memo 240 - RK_60183.docx	ROSS-003279562-ROSS-003279563
Joint Highway Dist. No. 13 v. Hinman, 220 Cal. 578	200+121	Highway construction is "public purpose" for which property may be taxed by state.	Is construction of a proposed highway a typical public purpose for which property may be taxed by the state?	Highways - Memo 328 - RK_60190.docx	ROSS-003279627-ROSS-003279628
Memphis & C. Ry. Co. v. Pace, 282 U.S. 241	200+121	Construction and maintenance of serviceable roads is public purpose for which property may be taxed by state.	Is construction of a proposed highway a typical public purpose for which property may be taxed by the state?	018771.docx	LEGALEASE-00152523-LEGALEASE-00152524
Craig v. Heis, 30 Ohio St. 550	200+145	An assessment levied, under Act March 27, 1867, 64 Ohio Laws, 80, for the construction of a road, is a lien on the land from the time the assessment is made.	Are assessments for road improvements considered liens?	018773.docx	LEGALEASE-00152525-LEGALEASE-00152526
Unruh v. Purina Mills, 289 Kan. 1185	302+48	Whether a pleading is sufficient to state a cause of action is a question of law.	Is whether a pleading is sufficient to state a cause of action a question of law?	037891.docx	LEGALEASE-00152192-LEGALEASE-00152193
Zeeb v. Atlas Powder Co., 32 Del. Ch. 486	308+92(1)	Except as to acts so peculiarly personal that their performance may not be delegated, or except as to acts regulated by statute which are required to be performed personally, generally an individual may do all acts through an agent which he could do himself.	Who can be delegated to an agent?	041498.docx	LEGALEASE-00152227-LEGALEASE-00152228
In re Lang's Estate, 301 Pa. 429	162+518(2)	Where notes due from residents in state were held by deceased in another state at time of death, ancillary letters of administration were improperly granted in state (20 PS S 341). Act June 7, 1917, P. L. 457, S 2(a), 20 PS S 341, provides that ancillary letters of administration shall be grantable only by register of county where principal part of goods and estate of such decedent within this commonwealth shall be. The situs of the notes was in the other state where the owner thereof died, and there was no part of decedent's estate in county when ancillary letters were granted.	Is the situs of a promissory note with the owner?	009922.docx	LEGALEASE-00153684-LEGALEASE-00153685
Haywood v. Ryan, 85 N.J.L. 116	129+108	That a person walking along a public street in a peaceable manner is followed by a crowd does not make him a disorderly person in violation of Act Concerning Disorderly Persons, S 3.	"Is a person walking along a public highway, quietly and peacefully followed by a crowd, a disorderly person?"	014391.docx	LEGALEASE-00153420-LEGALEASE-00153421
Ishimatsu v. Regents of Univ. of Cal., 266 Cal. App. 2d 854	141E+1010	University is "statewide administrative agency" within meaning of government code and possesses adjudicatory powers derived from constitution as to problems and purposes of its personnel. West's Ann.Const. art. 9, S 9; West's Ann.Gov.Code, S 11000 et seq.	Is a university a statewide administrative agency?	016764.docx	LEGALEASE-00153760-LEGALEASE-00153761
Dinu v. President & Fellows of Harvard Coll., 56 F. Supp. 2d 129	141E+1166	Student handbook can be source of terms defining reciprocal rights and obligations of university and its students.	"Can student handbook, like the occasional employee handbook, be a source of the terms defining the reciprocal rights and obligations of a school and its students?"	Education - Memo # 219 - C - KS_61004.docx	ROSS-003280100-ROSS-003280101

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Phillip C. ex rel. A.C. v. Jefferson Cty. Bd. of Educ., 701 F.3d 691	141E+867	Regulation stating that parent of disabled student has right to independent educational evaluation (IEE) at public expense if parent disagrees with evaluation obtained by public agency does not exceed scope of Individuals with Disabilities Education Act (IDEA), as would render regulation invalid; although IDEA section stating that parent must have opportunity to obtain IEE of child does not expressly state that parent is to be reimbursed for cost of IEE, separate IDEA section expressly requires Secretary of Education to preserve any IDEA regulation that existed as of July 20, 1983, and one of the regulations in effect at that time expressly provided to parents right to IEE at public expense, and subsequent to 1983, Congress reauthorized IDEA on three separate occasions without altering parent's right to publicly financed IEE. Individuals with Disabilities Education Act, SS 607(b)(2), 615(b), 20 U.S.C.A. SS 1406(b)(2), 1415(b); 34 C.F.R. S 300.502.	What is the take of Congress on Parent's rights under Individuals with Disabilities Education Act?	017060.docx	LEGALEASE-00152828- LEGALEASE-00152829
Sprik v. Regents of Univ. of Michigan, 43 Mich. App. 178	141E+990	Powers of the University of Michigan are separate and distinct from those of the legislature, and, not being a legislative creature, it does not need legislative approval of its expenditures. M.C.L.A.Const.1963, art. 8, S 5.	Does a university need legislative approval for expenditures?	017072.docx	LEGALEASE-00152876- LEGALEASE-00152877
Sprik v. Regents of Univ. of Michigan, 43 Mich. App. 178	141E+990	Powers of the University of Michigan are separate and distinct from those of the legislature, and, not being a legislative creature, it does not need legislative approval of its expenditures. M.C.L.A.Const.1963, art. 8, S 5.	Does a university need legislative approval of its expenditures?	017095.docx	LEGALEASE-00153732- LEGALEASE-00153733
Chennault v. Sager, 187 Mont. 455	200+77(2)	Within the statute governing abandonment of county roads, requiring petition to contain signatures of either ten persons or a majority of freeholders of road district where abandonment is sought, the alternative of the majority of freeholders of the road district cannot be interpreted as meaning a majority of those directly affected, even if size of the road district is such that compliance with the second alternative is impossible. MCA 7-14-2601.	Does the statue state that the petition must contain the signature of a majority of freeholders of the road district?	Highways-Memo 357-SB_60751.docx	ROSS-003294312-ROSS- 003294313
Seiser v. Maggard, 457 S.W.2d 678	302+21	Under present-day practice and pleading, regardless of consistency, party may set forth his claim. V.A.M.R. Civil Rules 55.06, 55.12.	"Can a party set forth his claim, regardless of consistency?"	023698.docx	LEGALEASE-00153107- LEGALEASE-00153108
Pentecostal Holiness Church v. Mauney, 270 So. 2d 762	302+24	"Sham pleadings" are those which are inherently false and must have been known by interposing party to be untrue.	Are sham pleadings those which must have been known by the interposing party to be untrue?	023700.docx	LEGALEASE-00153247- LEGALEASE-00153248

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Nelson v. Hillsborough Cty., 189 So. 3d 1037	104+213.5(1)	Dismissal of personal injury action against the county for claimant's failure to comply with the statutory notice requirements for a tort claim against the State or any of its agencies or subdivisions was erroneous, where trial court determined that the claimant's allegation that notice was provided was insufficient because it did not provide a date for such notice or attach the letter to the complaint, and in reaching this conclusion the court looked outside the four corners of the complaint, pressing counsel as to what evidence of notice claimant would be able to produce. West's F.S.A. S 768.28(6)(b); West's F.S.A. RCP Rule 1.120(c).	"For purposes of ruling on a motion to dismiss, can the trial court look no further than the four corners of the complaint?"	038059.docx	LEGALEASE-00153201- LEGALEASE-00153202
Granite State Ins. Co. v. Transatlantic Reinsurance Co., 132 A.D.3d 479	307A+680	The court should not dismiss a defense where there remain questions of fact requiring a trial. McKinney's CPLR 3211(b).	Should the court not dismiss a defense where there remain questions of fact requiring a trial?	Pretrial Procedure - Memo # 8982 - C - UG_60646.docx	ROSS-003282431
Jensen v. Doherty, 101 Idaho 910	307A+581	Dismissal for failure to prosecute is a remedy to be sparingly used, but it is always available. Rules of Civil Procedure, Rule 41(b).	"Is dismissal for failure to prosecute a remedy to be sparingly used, but always available?"	Pretrial Procedure - Memo # 9168 - C - KI_60479.docx	ROSS-003284728-ROSS-003284729
McMillan v. Wells, 924 S.W.2d 33	307A+581	Missouri law disfavors dismissal of causes for failure to prosecute; law favors trial on merits.	Does law disfavor dismissal of causes for failure to prosecute?	Pretrial Procedure - Memo # 9196 - C - BP_60504.docx	ROSS-003278446-ROSS-003278447
Murphy v. Stonewall Kitchen, 503 S.W.3d 308	307A+683	The facts alleged in the petition are assumed to be true and are construed liberally in favor of the plaintiff on a motion to dismiss for failure to state a claim.	Are the facts alleged in a petition assumed to be true and construed liberally?	038429.docx	LEGALEASE-00153111- LEGALEASE-00153112
Stubl v. T.A. Sys., 984 F. Supp. 1075	308+81(5)	Under Michigan law, sales agents are entitled to post-termination commissions for sales they procured during their time at former employer.	Are sales agents entitled to post-termination commissions?	Principal and Agent - Memo 265 - KC_60661.docx	ROSS-003280592
Bailey v. Worton, 752 So. 2d 470	308+92(1)	Authority of an agent to bind his principal rests upon the powers conferred upon him by the principal.	Does the authority of an agent to bind his principal rest upon the power conferred upon him by the principal?	Principal and Agent - Memo 305 - KC_60666.docx	ROSS-003280359-ROSS-003280360
City of Madera v. Black, 181 Cal. 306	371+2001	The word "impost," in its broader sense, means any tax or tribute imposed by authority, and applies as well to a tax on persons as a tax on property.	What does the word impost mean for the purpose of tax?	Taxation - Memo # 917 - C - JL.docx	LEGALEASE-00043489- LEGALEASE-00043490
Perkins v. Texas Nat. Bank of Commerce of Houston, 448 S.W.2d 725	21+9	Fact that affidavit contains both admissible and inadmissible matters does not render it entirely void.	Will affidavit be rendered void if it contains both admissible and inadmissible matters?	Affidavits - Memo 73 - SNJ.docx	LEGALEASE-00043597- LEGALEASE-00043598
Osgood's Adm'rs v. Artt, 17 F. 575	83E+525	By the rules of the law merchant, the purchaser of negotiable paper payable to order, unless it be indorsed by the payee, takes subject to any defense which the payor has against the payee. He becomes, in such case, only the equitable owner of the debt or claim evidenced by the security.	Does a bona fide purchaser for value of negotiable paper that is indorsed by the payee take legal title unaffected by any equities the payor has against the payee?	009776.docx	LEGALEASE-00154731- LEGALEASE-00154732
Boyd v. Am. Bank of Commerce at Wolfforth, 872 S.W.2d 29	8.30E+183	In construing promissory notes, court's primary objective is to ascertain and give effect to true intentions of the parties, seeking to give effect to all the provisions in notes so that none will be rendered meaningless.	Should the intention of parties be given effect when interpreting a promissory note?	Bills and Notes - Memo 999 - IS RK_61318.docx	ROSS-003321174-ROSS-003321175

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Mathis v. DCR Mortg. III Sub I, 389 S.W.3d 494	8.30E+184	A court's primary duty in construing a note and deed of trust, as when construing a contract, is to ascertain the parties' intent from the instrument's language.	Should the intention of parties be given effect when interpreting a promissory note?	009992.docx	LEGALEASE-00154695-LEGALEASE-00154696
Wilson Courts Tenants Ass'n v. 523-525 Mellon St., 924 A.2d 289	307A+680	A motion for judgment on the pleadings should not be granted where there is a genuine issue of material fact. Civil Rule 12(c).	Should a motion for judgment on the pleadings not be granted where there is a genuine issue of material fact?	038130.docx	LEGALEASE-00154807-LEGALEASE-00154808
Montgomery Cty. v. Fuqua, 22 S.W.3d 662	307A+561.1	Affirmative defenses are "pleas in bar," and do not provide a justification for summary dismissal on the pleadings.	Do affirmative defenses provide a justification for summary dismissal on the pleadings?	038451.docx	LEGALEASE-00154495-LEGALEASE-00154496
Univ. of Houston v. Elthon, 9 S.W.3d 351	302+78	Affirmative defenses are pleas in bar, and do not provide a justification for summary dismissal on the pleadings.	Do affirmative defenses provide a justification for summary dismissal on the pleadings?	Pretrial Procedure - Memo # 9238 - C - SJ.docx	LEGALEASE-00043959-LEGALEASE-00043960
City of Los Angeles v. Gleneagle Dev. Co., 62 Cal. App. 3d 543	307A+594.1	Dismissal for want of prosecution is only mandated when there is an entire absence of any showing of good cause for delay.	Is dismissal only mandated when there is an entire absence of any showing of good cause for delay?	038808.docx	LEGALEASE-00154089-LEGALEASE-00154090
Ritter v. Aetna Cas. & Sur. Co., 686 S.W.2d 563	307A+581	A trial court on the motion of defendant or on its own motion may dismiss an action for failure to prosecute, such being an involuntary dismissal. V.A.M.R. 67.02, 67.03.	Can a court on the motion of defendant or on its own motion dismiss an action for failure to prosecute?	Pretrial Procedure - Memo # 9475 - C - SB_61088.docx	ROSS-003296333-ROSS-003296334
Unemployment Comp. Div. of Employment Sec. Bureau v. Bjornsrud, 261 N.W.2d 396	307A+581	Dismissal for lack of prosecution is a harsh remedy and should be resorted to only in extreme cases.	Is dismissal for lack of prosecution a harsh remedy to be resorted to only in extreme cases?	Pretrial Procedure - Memo # 9513 - C - NC_61104.docx	ROSS-003283566-ROSS-003283567
Zeis v. Fruehauf Corp., 56 Wis. 2d 486	307A+581	Public policy requires dismissal of stale lawsuits which have not been adequately prosecuted.	Does public policy require dismissal of stale lawsuits which have not been adequately prosecuted?	039189.docx	LEGALEASE-00154779-LEGALEASE-00154780
NUCOR Corp. v. Aceros Y Maquilas de Occidente, S.A. de C.V., 28 F.3d 572	308+92(1)	Under law of Indiana, "actual authority" to act on behalf of another requires principal's manifest consent to have person act as its agent, agent's manifest consent to arrangement, and principal's control over agent's actions.	What are the elements of actual authority in the context of agency relationship?	041533.docx	LEGALEASE-00154121-LEGALEASE-00154122
Fisser v. Int'l Bank, 164 F. Supp. 826	308+183(1)	Agent of an absent owner of cargo may assert in his own name his principal's right of action.	"Under admiralty law, can an agent assert in his own name the principals right of action?"	Principal and Agent - Memo 324 - KC_61257.docx	ROSS-003295073
United States v. Orozco-Santillan, 903 F.2d 1262	377E+12(1)	Alleged threats should be considered in light of their entire factual context, including surrounding events and reaction of listeners. 18 U.S.C.A. S 115.	What should alleged threats be considered in light of?	Threats - Memo #65 - C - LB_61266.docx	ROSS-003280555-ROSS-003280556
United States v. Heard, 709 F.3d 413	350H+66	Imposition of within-Guidelines sentence of 151 months for conviction of aiding and abetting bribery of a public official was proper; Guidelines range was 151-188 months, and since there were multiple counts of conviction including conspiracy, tax evasion, subscribing false tax returns, and corrupt interference with internal revenue laws, court was authorized to impose sentence on count carrying the highest statutory maximum of 180 months. 18 U.S.C.A. SS 201(b)(1), 3553(a); U.S.S.G. SS 3D1.4, 5G1.2, 18 U.S.C.A.	How should the court impose sentences when there are multiple counts of conviction?	011119.docx	LEGALEASE-00154884-LEGALEASE-00154885
Forney 921 Lot Dev. Partners I v. Paul Taylor Homes, Ltd., 349 S.W.3d 258	156+52.15	Unlike equitable estoppel, quasi-estoppel does not require a showing of a false representation or detrimental reliance.	Does quasi-estoppel not require a false representation or detrimental reliance?	Estoppel - Memo #91 - C - CSS_61543.docx	ROSS-003282454-ROSS-003282455

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Dillon v. Rogers, 596 F.3d 260	156+52(1)	Estoppel is an equitable doctrine invoked to avoid injustice in particular cases.	Is estoppel an equitable doctrine invoked to avoid injustice in particular cases?	018097.docx	LEGALEASE-00155380-LEGALEASE-00155381
In re Bd. of Water Supply of City of New York, 277 N.Y. 452	148+131	"Fair market value," as used in measuring just compensation in condemnation proceedings, means neither panic value, auction value, speculative value, nor a value fixed by depressed or inflated prices. Const. art. 1, S 6.	Is fair market value of a property the same as its auction value?	018368.docx	LEGALEASE-00155176-LEGALEASE-00155177
Corsello v. Verizon New York, 77 A.D.3d 344	302+64(1)	A cause of action is duplicative of another when they both arise out of the same facts and allege the same damages.	Is a cause of action duplicative of another when they both arise out of the same facts and allege the same damages?	023773.docx	LEGALEASE-00155436-LEGALEASE-00155437
Crooked Creek, III v. City of Greenwood, 352 Ark. 465	307A+690	Where a dismissal is with prejudice, it is conclusive of the rights of the parties as if the suit had been prosecuted to a final adjudication adverse to the plaintiff.	Is the dismissal of a claim with prejudice conclusive as to the rights of the parties on that claim?	024593.docx	LEGALEASE-00155791-LEGALEASE-00155792
Laurie v. Ezard, 595 S.W.2d 336	307A+581	Dismissal for failure to prosecute should not be based on remote, even if extended, periods of inactivity.	Should dismissal for failure to prosecute be based on remote periods of inactivity?	039138.docx	LEGALEASE-00155245-LEGALEASE-00155247
Heaney v. Verson Allsteel Press Co., 64 Mich. App. 597	307A+581	Purpose of no progress dismissals is to permit court to clean up dead wood and where plaintiff is in fact prosecuting claim with due diligence, policy of rule will not be furthered by denying reinstatement.	Is the purpose of no progress dismissals to permit court to clean up dead wood?	039168.docx	LEGALEASE-00155402-LEGALEASE-00155403
Willis v. Wetco, 853 P.2d 533	307A+594.1	A showing of "good cause" for delay in prosecution is the production of a reasonable excuse for lack of prosecution.	Is a showing of good cause a production of a reasonable excuse for lack of prosecution?	039209.docx	LEGALEASE-00155106-LEGALEASE-00155107
Employers Liab. Assur. Corp. v. Zolfo Merch. Inc., 62 Misc. 2d 872	307A+581	Delays in proceeding to judgment stand on same footing as failing to prosecute an action. CPLR 3215(c).	Do delays in proceeding to judgment stand on the same footing as failing to prosecute an action?	039217.docx	LEGALEASE-00155213-LEGALEASE-00155214
Montgomery Furniture Co. v. Hardaway, 104 Ala. 100	308+93	The authority of a general agent is, as to third parties, what it appears to be, and must be determined by the nature of the business, and is prima facie coextensive with its requirements.	Can an agents authority be determined by the nature of his business?	Principal and Agent - Memo 310 - RK_61908.docx	ROSS-003284718-ROSS-003284719
Montgomery Furniture Co. v. Hardaway, 104 Ala. 100	308+93	The authority of a general agent is, as to third parties, what it appears to be, and must be determined by the nature of the business, and is prima facie coextensive with its requirements.	Is an agents authority prima facie co-existive with its requirements?	Principal and Agent - Memo 311 - RK_61909.docx	ROSS-003294341-ROSS-003294342
Booker v. United Am. Ins. Co., 700 So. 2d 1333	308+54	Principal is bound by acts of purported subagent only if (1) agent had express authority to appoint subagent; (2) agent had implied authority to appoint subagent; or (3) principal ratified appointment.	When will the principal be bound for the acts of a purported subagent?	041634.docx	LEGALEASE-00155680-LEGALEASE-00155681
Booker v. United Am. Ins. Co., 700 So. 2d 1333	308+54	Principal is bound by acts of purported subagent only if (1) agent had express authority to appoint subagent; (2) agent had implied authority to appoint subagent; or (3) principal ratified appointment.	Can a principal be held liable if he ratifies the acts of a purported subagent?	Principal and Agent - Memo 334 - RK_61922.docx	ROSS-003294034-ROSS-003294035
First Tr. Joint Stock Land Bank of Chicago, Ill. v. Diercks, 222 Iowa 534	308+92(1)	Whatever an agent says or does within the scope of his express or implied authority binds his principal, and is deemed his act.	Is it fundamental law that anything done or said by an agent is the act of and binds the principal?	Principal and Agent - Memo 340 - RK_61928.docx	ROSS-003284056-ROSS-003284057
Com. v. Braica, 68 Mass. App. Ct. 244	3.77E+23	A "pattern of conduct or series of acts," as used in the criminal-harassment statute, requires at least three separate incidents that occurred after the effective date of the statute. M.G.L.A. c. 265, S 43A(a).	"What does ""a pattern of conduct or series of acts,"" as used in the criminal harassment statute, require?"	046781.docx	LEGALEASE-00155182-LEGALEASE-00155183

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Ragen v. Wolfner, 43 Ill. App. 2d 70	228+185.1(1)	Although exhibits attached to affidavits for summary judgment were not separately sworn to as true copies of their originals, references thereto in the text of the affidavits rendered the exhibits verified copies. Supreme Court Rules, rule 15(1), S.H.A. ch. 110, S 101.15(1).	Are exhibits attached thereto in an affidavit considered verified?	Affidavits - Memo 89 - SNJ.docx	LEGALEASE-00045624-LEGALEASE-00045625
Herbert S. Newman & Partners, P.C. v. CFC Const. Ltd. P'ship, 236 Conn. 750	156+52(1)	Estoppel is predicated on proof of misleading conduct resulting in prejudice to other party.	Is estoppel predicated on proof of misleading conduct resulting in prejudice to the other party?	Estoppel - Memo #124 - C - CSS_62026.docx	ROSS-003279046-ROSS-003279047
M.J. Oldenstedt Plumbing Co. v. K mart Corp., 257 Ill. App. 3d 759	156+52(1)	Estoppel is equitable doctrine preventing party from taking advantage of his own wrongdoing.	Is estoppel an equitable doctrine preventing a party from taking advantage of his own wrongdoing?	Estoppel - Memo #129 - C - CSS_62029.docx	ROSS-003293912-ROSS-003293913
Holz v. Lyles, 287 Ala. 280	200+159(1)	The right of an individual to an injunction against obstruction of a public street or highway depends on whether he has sustained damages different from that sustained by the public; if he sustains an additional specific damage he may sue to have it abated if remedy at law is inadequate.	Is an individual entitled to injunction against obstruction of a public road?	019204.docx	LEGALEASE-00156264-LEGALEASE-00156265
Wood Preserving Co. v. Resaca Lumber Co., 29 Ga. App. 501	302+35	Conclusions in pleadings are to be disregarded, where the particular facts alleged are contradictory to them, or fail to support them.	Are conclusions in pleadings disregarded where particular facts alleged are contradictory to them?	Pleading - Memo 570 - RMM_62378.docx	ROSS-003291997-ROSS-003291998
Wood Preserving Co. v. Resaca Lumber Co., 29 Ga. App. 501	302+35	Conclusions in pleadings are to be disregarded, where the particular facts alleged are contradictory to them, or fail to support them.	Are conclusions in pleadings disregarded where particular facts alleged are contradictory to them?	Pleading - Memo 570 - RMM.docx	LEGALEASE-00045776-LEGALEASE-00045777
Iverson v. Iverson, 38 Ill. App. 3d 308	302+64(1)	Duplicitous pleadings, though not in strict conformity with Civil Practice Act, are permitted. S.H.A. ch. 40, S 1; ch. 110, SS 33, 33(2); Supreme Court Rules, rule 135, S.H.A. ch. 110A, S 135.	Are duplicitous pleadings which are not in conformity with Civil Practice Act permitted?	Pleading - Memo 572 - RMM_62380.docx	ROSS-003295008-ROSS-003295009
Arrow Marble v. Estate of Killion, 441 S.W.3d 702	307A+690	An order dismissing a claim with prejudice when only dismissal without prejudice was appropriate can be challenged through a postjudgment motion.	Can an order dismissing a claim with prejudice when only dismissal without prejudice was appropriate be challenged through a post judgment motion?	024652.docx	LEGALEASE-00155904-LEGALEASE-00155905
Garrett v. Williams, 250 S.W.3d 154	307A+690	A dismissal with prejudice is improper if the plaintiff's failure to comply with the statute's procedural requirements can be remedied.	Is a dismissal with prejudice improper if the plaintiff's failure can be remedied?	024746.docx	LEGALEASE-00156160-LEGALEASE-00156161
Smith v. SBC Commc'ns Inc., 178 N.J. 265	307A+690	The motion to dismiss should be granted only in rare instances and ordinarily without prejudice.	Should the motion to dismiss should be granted only in rare instances and ordinarily without prejudice?	024758.docx	LEGALEASE-00156194-LEGALEASE-00156195
State v. Payne, 178 Ohio App. 3d 617	3.77E+28	Substantial incapacity sufficient to support a conviction for menacing by stalking does not mean that the victim must be hospitalized, or totally unable to care for herself; incapacity is substantial if it has a significant impact upon the victim's daily life. R.C. S 2903.211(A)(1), (D)(2)(a, b).	"Does ""substantial incapacity"" for the purposes of a conviction for menacing by stalking, require the victim to be hospitalized?"	046819.docx	LEGALEASE-00155990-LEGALEASE-00155991
State v. Devlin, 249 Or. 678	67+41(4)	Entry, as any other element of corpus delicti of crime of burglary, need not be proven by direct evidence, but may be established by circumstantial evidence. ORS 164.240.	Can burglary be proved by circumstantial evidence?	013082.docx	LEGALEASE-00156565-LEGALEASE-00156566
State v. Williams, 124 Wash. 160	67+16	Offender need not personally enter burglarized building in order to be guilty as a principal in the burglary. LSA-R.S. 14:24, 14:62.2.	Does a person need to enter the building to be guilty of being a principal in a burglary?	013088.docx	LEGALEASE-00156571-LEGALEASE-00156572

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Strosnider v. State, 422 N.E.2d 1325	210+813	Criminal mischief is not a lesser included offense of burglary with intent to commit theft, since damage element in criminal mischief charge is not element of burglary charge and therefore criminal mischief is not proved by same or less than all material elements of burglary. IC 31-6-2-4(d), 35-41-1-2, 35-43-2-2(a)(4) (1980 Supp.).	Is mischief a lesser included offense of burglary?	Burglary - Memo 291 - RK.docx	LEGALEASE-00046257-LEGALEASE-00046258
State v. Jackson, 112 Wash. 2d 867	210+813	Malicious mischief was not lesser included offense of attempted second-degree burglary, even if "substantial step" in attempt was property damage; property damage was not inherent characteristic of attempted burglary. West's RCWA 9A.28.020, 9A.28.020(1), 9A.48.090, 9A.52.030, 9A.52.040.	Is mischief a lesser included offense of burglary?	013102.docx	LEGALEASE-00156553-LEGALEASE-00156554
State v. Jackson, 112 Wash. 2d 867	210+813	Malicious mischief was not lesser included offense of attempted second-degree burglary, even if "substantial step" in attempt was property damage; property damage was not inherent characteristic of attempted burglary. West's RCWA 9A.28.020, 9A.28.020(1), 9A.48.090, 9A.52.030, 9A.52.040.	Is mischief a lesser included offense of burglary?	Burglary - Memo 291 - RK_62293.docx	ROSS-003293133-ROSS-003293134
Bryant v. State, 282 Ga. 631	67+41(4)	Circumstantial evidence can suffice to prove the lack of authority to enter a dwelling, as required to support conviction for burglary. West's Ga.Code Ann. S 16-7-1.	Can circumstantial evidence establish lack of authority to enter?	Burglary - Memo 295 - RK_62297.docx	ROSS-003320216-ROSS-003320217
State v. Jackson, 112 Wash. 2d 867	67+2	Nonconsent is not per se element of burglary but element of "breaking" means actual or constructive use of some force against part of building in effectuating unconsented entry. F.S.A. S 810.02.	Is nonconsent an element of breaking?	013118.docx	LEGALEASE-00156534-LEGALEASE-00156535
Williams v. State Farm Mut. Auto. Ins. Co., 202 Mich. App. 491	67+9(1)	Use of any force in pushing wider a partly open door and entering a building constitutes a burglary.	Do entries through partly open doors constitute burglary?	013142.docx	LEGALEASE-00156613-LEGALEASE-00156614
Com. v. Starkes, 268 Pa. Super. 108	67+2	Under statute providing that person is guilty of burglary if he enters building or occupied structure with intent to commit a crime therein, unless premises are at the time open to the public or the actor is licensed or privileged to enter, a person is not a burglar if he is permitted to enter premises, even though he intends to commit a crime. 18 Pa.C.S.A. S 3502(a).	Can a person who is licensed or privileged to enter be considered a burglar?	013152.docx	LEGALEASE-00156607-LEGALEASE-00156608
People v. Smith, 128 Misc. 2d 733	67+10	One commits second-degree burglary if he knowingly and unlawfully enters or remains in occupied structure with intent to commit crime against person or property. West's C.R.S.A. S 18-4-203.	Are unlawful entry or remaining in a building elements of second degree burglary?	013170.docx	LEGALEASE-00156581-LEGALEASE-00156582
People v. Oram, 217 P.3d 883	67+3	Intent to commit a crime against another person or property while in the dwelling, for purposes of second degree burglary, can be formed either before or after the unlawful entry. West's C.R.S.A. S 18-3-206(1)(a).	Are unlawful entry or remaining in a building elements of second degree burglary?	Burglary - Memo 323 - RK.docx	LEGALEASE-00046318-LEGALEASE-00046319
People v. Pritchard, 149 A.D.3d 1479	67+4	Where a building consists of two or more units separately secured or occupied, each unit shall be deemed both a separate building in itself and a part of the main building, for purposes of first-degree burglary statute. McKinney's Penal Law S 140.00(2)(3).	Does a building consisting of separate units constitute separate buildings?	013172.docx	LEGALEASE-00156583-LEGALEASE-00156584
Richmond Cty. Bus. Ass'n v. Richmond Cty., 224 Ga. 854	104+190.2	County can only exercise power of taxation as conferred upon it either directly by constitution or by general assembly when authorized by constitution.	When can a county exercise the power of taxation?	Taxation - Memo # 1006 - C - JL_62479.docx	ROSS-003293079-ROSS-003293080

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Nw. Mut. Life Ins. Co. v. State Bd. of Equalization, 73 Cal. App. 2d 548	268+405	A special assessment is a "tax" in that it distributes what is originally a public burden, but is not a tax in the sense of a tax for revenue which is an exaction upon the citizen for support of government, paid to the state as a state for protection or public service, whereas a special "assessment" is imposed upon property within a limited area for payment of a local improvement to enhance value of all property within that area and can be levied only upon land; and is ordinarily based wholly upon benefits, and is exceptional both as to time and locality.	What are some significant differences between a special assessment and a tax?	044508.docx	LEGALEASE-00156478- LEGALEASE-00156479
Williams v. People, 687 P.2d 950	3.77E+10	An unloaded firearm is, as a matter of law, a "deadly weapon" under the felony menacing statute. C.R.S. 18-1-901(3)(e).	"Is an unloaded firearm a ""deadly weapon"" under the felony menacing statute?"	046679.docx	LEGALEASE-00156496- LEGALEASE-00156497
Com. v. Kidd, 296 Pa. Super. 393	3.77E+10	Present ability to inflict harm is not required as an element of offense of terroristic threats. 18 Pa.C.S.A. S 2706.	Is a present ability to inflict harm a required element of offense of terroristic threats?	046682.docx	LEGALEASE-00156498- LEGALEASE-00156499
Jarrell v. State, 537 S.W.2d 255	3.77E+10	Capability to carry out threat is not essential element of offense of terroristic threats. V.T.C.A., Penal Code S 22.07.	Is the capability to carry out a threat an essential element of the offense of terroristic threats?	046684.docx	LEGALEASE-00156500- LEGALEASE-00156501
Native Ecosystems Council v. Weldon, 697 F.3d 1043	411+7	The determination of whether a party has properly exhausted a claim to the Forest Service must be made on a case-by-case basis. Department of Agriculture Reorganization Act of 1994, S 212(e), 7 U.S.C.A. S 6912(e).	Is there a bright-line test or standard to determine whether a party has properly exhausted a claim to the Forest Service?	Woods and Forests - Memo 4 - KC_62520.docx	ROSS-003279968-ROSS-003279969
R.S. Oglesby Co. v. Bank of New York, 114 Va. 663	8.30E+10	A negotiable note made in Virginia but payable in New York, and discounted there, is a New York contract, and its validity, when sued on in this State, is to be determined by the laws of New York. A clause in such a note providing for the payment of a fee of ten per cent. for collection by an attorney is, like the provisions for the payment of interest and exchange, a mere incident of the principal contract, and to be governed by the same law, although payment is sought to be enforced in Virginia.	What types of provisions are considered mere incident to a principal contract?	009118.docx	LEGALEASE-00157844- LEGALEASE-00157845
Farm Mortg. & Loan Co. v. Beale, 113 Neb. 293	95+2	Where persons residing in different states contract, they can select laws of either state to govern it.	Can the laws of either state be selected to govern a contract between parties residing in different states?	010923.docx	LEGALEASE-00157932- LEGALEASE-00157933
Bolz v. Hatfield, 41 S.W.3d 566	156+52(6)	Estoppel is not a favorite of the law and will not arise unless justice to the rights of others demands it.	Will an estoppel not arise unless justice to the rights of others demands it?	017874.docx	LEGALEASE-00157782- LEGALEASE-00157783
Rhodes v. State, 240 S.W.3d 882	156+52(5)	Estoppel is a flexible doctrine that manifests itself in various forms that are not limited to unilateral requests.	Does an estoppel manifest itself in various forms that are not limited to unilateral requests?	017880.docx	LEGALEASE-00157780- LEGALEASE-00157781
Genske v. Jensen, 188 Wis. 17	322H+1277	A contract for exchange of property requiring abstract of title showing it to be "merchantable" means a good, marketable title, such as would be conveyed by an ordinary warranty deed.	Does the term merchantable used in contract means a marketable title?	018417.docx	LEGALEASE-00157446- LEGALEASE-00157447
People v. Roschli, 275 N.Y. 26	217+1001	That which is in substance a contract of insurance cannot be changed into something else by giving it another name.	Can the substance of an insurance contract be changed by giving it another name?	Insurance - Memo 39 - SNJ_62729.docx	ROSS-003282926-ROSS-003282927
White v. Washington Metro. Area Transit Auth., 432 A.2d 726	307A+581	Because dismissal for failure to prosecute is extreme penalty for lack of diligence, it is disfavored. Civil Rule 41(b).	"Is dismissal for failure to prosecute for lack of diligence, disfavored as it is an extreme penalty?"	024796.docx	LEGALEASE-00157714- LEGALEASE-00157715
Jennings v. SSM Health Care St. Louis, 355 S.W.3d 526	307A+690	The general rule is that a dismissal failing to indicate that it is with prejudice is deemed to be without prejudice.	Is it the general rule that a dismissal failing to indicate that it is with prejudice is deemed to be without prejudice?	024961.docx	LEGALEASE-00157247- LEGALEASE-00157248

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Points v. Oklahoma Pub. Co., 672 P.2d 1146	228+204	An action's termination cannot be both a judgment upon merits and a dismissal sans prejudice; it must be either one or other.	Can the termination of a case be both a judgment on the merits and a dismissal without prejudice?	Pretrial Procedure - Memo # 10509 - C - SB_63378.docx	ROSS-003308849-ROSS-003308850
Rice v. Crow, 81 Cal. App. 4th 725	307A+690	"Retraxit" is a judgment on the merits preventing a subsequent action on the dismissed claim.	"Is ""retraxit"" a judgment on the merits preventing a subsequent action on the dismissed claim?"	025125.docx	LEGALEASE-00156959-LEGALEASE-00156960
Channel Lumber Co. v. Porter Simon, 78 Cal. App. 4th 1222	308+1	Heart of agency is expressed in the ancient maxim: "Qui facit per alium facit per se," meaning he who acts through another acts by or for himself.	"What does the principle qui facit per alium, facit per se mean?"	041762.docx	LEGALEASE-00157822-LEGALEASE-00157823
In re HH (US), 175 B.R. 188	308+1	In deciding whether agency relationship exists, finder of fact must look to substance of relationship; talismanic language alone does not give rise to agency.	Can talismanic language determine an agency relationship?	041822.docx	LEGALEASE-00157920-LEGALEASE-00157921
Cole v. McWillie, 464 S.W.3d 896	308+8	For an agency relationship to exist, there must be both a meeting of the minds between the parties and some act constituting the appointment of an agent.	Should there be meeting of minds between the parties for an agency to exist?	041846.docx	LEGALEASE-00157544-LEGALEASE-00157545
Arizona State Tax Comm'n v. Parsons-Jurden Corp., 9 Ariz. App. 92	308+1	Agency is ultimately a question of intention of parties as evidenced by their acts, and is not dependent upon what the particular person in question is called.	Is agency a question of the intention of the parties?	041918.docx	LEGALEASE-00157512-LEGALEASE-00157513
Basile v. H & R Block, 563 Pa. 359	308+1	Agency results only if there is an agreement for the creation of a fiduciary relationship with control by the beneficiary.	Does an agreement for the creation of a fiduciary relationship with control by the beneficiary result in agency?	Principal and Agent - Memo 498 - KK_63277.docx	ROSS-003305551-ROSS-003305552
Viado v. Domino's Pizza, 230 Or. App. 531	231H+23	Pursuant to common law "right-to-control" test, an agent is an employee if the principal has the right to control the physical details of the work being performed by the agent; in other words, the principal directs not only the end result, but also controls how the employee performs the work.	When is an agent considered an employee?	Principal and Agent - Memo 507 - KK_63285.docx	ROSS-003311826-ROSS-003311827
Bruce v. ICI Americas, 933 F. Supp. 781	308+1	Under Iowa law, principal's right to control agent is primary consideration in determining existence of agency relationship.	What is the primary consideration in determining the existence of an agency relationship?	Principal and Agent - Memo 510 - KK_63288.docx	ROSS-003321317-ROSS-003321318
Kahn v. Royal Banks of Missouri, 790 S.W.2d 503	308+29.5	Reasonable duration of agent's authority depends on such factors as nature of acts specifically authorized, formality of authorization, and likelihood of changes in purposes of principal.	What does the duration of agency depend upon?	042163.docx	LEGALEASE-00157522-LEGALEASE-00157523
In re Wyly, 552 B.R. 338	308+8	Under Texas law, an agency relationship need not be expressly established, and instead may be implied based on the conduct of the parties under the circumstances.	How is a relationship of agency created?	042167.docx	LEGALEASE-00157484-LEGALEASE-00157485
TracFone Wireless v. Comm'n on State Emergency Commc'ns, 397 S.W.3d 173	371+2002	Legislature's decision to label a charge a "fee" rather than a "tax" is not binding; a charge is a fee rather than a tax when the primary purpose of the fee is to support a regulatory regime governing those who pay the fee.	Is the legislature's decision to label a charge a fee rather than a tax binding on the courts?	044569.docx	LEGALEASE-00157062-LEGALEASE-00157063
People v. Butler, 187 Cal. App. 4th 998	3.77E+11	For purposes of statute making it a crime to threaten another with death or great bodily injury, a threat is sufficiently specific when it threatens death or great bodily injury, and a threat is not insufficient simply because it does not communicate a time or precise manner of execution. West's Ann.Cal.Penal Code S 422.	Is a threat insufficient because it doe not communicate a time or precise manner of execution?	046870.docx	LEGALEASE-00157684-LEGALEASE-00157685

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Manning v. State Indus. Acc. Comm'n, 234 Or. 207	413+108	In determining whether workmen are engaged in hazardous occupations covered by Workmen's Compensation Act, the controlling factor is the occupation of the employer. ORS 656.082, 656.084, 656.086.	Does Workmens Compensation law protect the workmen of employers engaged in hazardous occupations?	047699.docx	LEGALEASE-00157640-LEGALEASE-00157641
Finlay & Assocs. v. Borg-Warner Corp., 146 N.J. Super. 210	29T+264	Where distributorship agreement did not grant a license to use trade name or trademark, service mark or related characteristic, for either a definite or indefinite period of time, distributorship agreement did not contain requirement for economic dependency, and distributor's business did not operate under name of any franchisor, Franchise Practices Act did not apply to distributorship agreement, and distributor could not recover against manufacturer under such Act for alleged wrongful termination of distributorship. N.J.S.A. 56:10-1 et seq., 3, subd. a, 4, 5, 7.	What does the term franchise mean?	Franchises - Memo 2 - ANG_65693.docx	ROSS-003283668-ROSS-003283670
In re Bryan, 466 B.R. 460	29+16	Debtor's annuity was not "insurance" and, therefore, her interest in annuity did not fall within Missouri exemptions for assessment plan life insurance, stipulated premium plan life insurance, or unmatured life insurance contracts; though there are similarities between life insurance contracts and annuities, the two are quite different, as a life insurance contract is normally funded in regular intervals and is payable at death, while an annuity is funded at its inception and is payable at a pre-determined date, and mere fact that debtor's annuity was issued by insurance company was insufficient to make it life insurance. V.A.M.S. SS 377.090, 377.330, 513.430(1)(7).	How is insurance different from annuity?	019554.docx	LEGALEASE-00158320-LEGALEASE-00158321
Ayer v. Ayer, 41 Vt. 346	289+954	Where a partnership is dissolved, each partner has equal right to collect the debts due; but in making such collection he acts for the partnership, and not in his sole exclusive right, and is accountable as such partner for all that he collects.	"After dissolution, does each partner have the power to collect debts of the partnership?"	021799.docx	LEGALEASE-00158538-LEGALEASE-00158539
Geiselman v. Andreson, 242 S.W. 798	289+768	Allegations of partnership can be controverted only by a special plea, denying under oath the fact of the partnership, and, unless so denied, such allegations are taken as confessed.	Is an allegation of partnership confessed if not denied under an oath?	021810.docx	LEGALEASE-00158580-LEGALEASE-00158581
McLeod v. Marion Labs., 600 S.W.2d 656	307A+561.1	For affirmative defense to be sustained upon bare motion to dismiss, defense must be irrefutably established by plaintiff's pleading. V.A.M.R. Civil Rule 55.27(a)(1).	Should a defense be established by pleading for a petition to be dismissed?	025450.docx	LEGALEASE-00158276-LEGALEASE-00158277
Braddock v. Zimmerman, 906 A.2d 776	307A+695	A complaint that is dismissed without prejudice but with express leave to amend is nevertheless a dismissed complaint.	Is a complaint that is dismissed without prejudice but with express leave to amend nevertheless a dismissed complaint?	Pretrial Procedure - Memo # 10914 - C - SK_64104.docx	ROSS-003280161-ROSS-003280162

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Houston Indep. Sch. Dist. v. Morris, 355 S.W.3d 668	371+2785	Rule of civil procedure providing that any dismissal pursuant to rule could not prejudice the right of an adverse party to be heard on a pending claim for affirmative relief did not allow taxpayers to proceed with their affirmative claim for refund after taxing units nonsuited claims against taxpayers for delinquent property taxes and, pursuant to taxpayers' motion, the district court realigned the parties with taxpayers becoming plaintiffs seeking affirmative relief of refund, where taxpayers' affirmative claim did not comport with requirements of Tax Code concerning exhaustion of administrative remedies, which was required for court to have jurisdiction. V.T.C.A., Tax Code S 42.09(a)(2), (b); Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	"Although generally a lawsuit can proceed after dismissal of a claim by an adverse party, should the lawsuit independently comport with a court's jurisdiction?"	025731.docx	LEGALEASE-00158434- LEGALEASE-00158435
State ex rel. Corbin v. Portland Cement Ass'n, 142 Ariz. 421	307A+690	Since judgment granting state's motion of dismissal of its antitrust action and injunctions imposed pursuant to dismissal requiring State to move within 30 days to dismiss its claim in antitrust action pending in Federal District Court were intermixed, and since trial court specifically retained jurisdiction for limited purpose of enforcing provisions of its judgment of dismissal and injunction, trial court's determination that State's three-day delay in dismissing federal court claim was de minimis under the circumstances and that dismissal should be without prejudice was not an abuse of discretion. 16 A.R.S. Rules Civ.Proc., Rule 41(a), par. 2.	When does a court retain its jurisdiction?	025742.docx	LEGALEASE-00158631- LEGALEASE-00158632
State v. Chillingworth, 106 Fla. 323	307A+693.1	After dismissal of action, court is without further jurisdiction and cannot render any judgment for or against plaintiff.	"After dismissal of action, is a court without further jurisdiction and cannot render any judgment for or against plaintiff?"	026009.docx	LEGALEASE-00158396- LEGALEASE-00158397
Keyes v. Chicago, B. & Q. R. Co., 326 Mo. 236	307A+693.1	Taking of involuntary nonsuit against one or more of defendants is equivalent to dismissal of action against such defendants.	Is the taking of involuntary nonsuit against one or more of defendants equivalent to a dismissal of action against such defendants?	Pretrial Procedure - Memo # 11127 - C - VP_63786.docx	ROSS-003305910-ROSS- 003305911
Townsend v. Shipley, 29 Ariz. 96	308+23(4)	Evidence that plaintiff purchased land of defendant, held under option unknown to plaintiff, with no showing of employment of defendant to make purchase, and only contract proved was one of purchase and sale with parties treating each other as vendor and vendee, held to show that relation of "agency," which imports commercial dealings between two parties, through medium of another, did not exist.	Does agency always import commercial dealings between two parties by and through the medium of another?	041723.docx	LEGALEASE-00158995- LEGALEASE-00158996
Juarbe v. City of Philadelphia, 288 Pa. Super. 330	308+3(1)	Principal and agent can be in relationship of a master and servant, or simply in status of two independent contractors.	Can a principal and agent be in the status of two independent contractors?	Principal and Agent - Memo 538 - RK_63996.docx	ROSS-003321902-ROSS- 003321903
State v. Weaver, 160 N.C. App. 613	308+1	Two essential elements of an agency relationship are: (1) authority of agent to act on behalf of principal, and (2) principal's control over agent.	Does an agent have authority to act on behalf of the principal?	042008.docx	LEGALEASE-00159093- LEGALEASE-00159094
Am. Soc. of Mech. Engineers v. Hydrolevel Corp., 456 U.S. 556	308+159(1)	Under general rules of agency law, principals are liable when their agents act with apparent authority and commit torts.	Can a principal be held liable for the tort of an agent?	042031.docx	LEGALEASE-00159140- LEGALEASE-00159141

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Anthony v. City of Omaha, 283 Neb. 868	371+3602	A "sales tax" is a tax upon the sale, lease, rental, use, storage, distribution, or other consumption of all tangible personal property in the chain of commerce.	What is a sales tax?	Taxation - Memo 1066 - C - KI_64706.docx	ROSS-003282142-ROSS-003282143
Perez-Olano v. Gonzalez, 248 F.R.D. 248	24+154	"Age-out" regulations pursuant to which an alien minor will "age-out" of eligibility for special immigrant juvenile (SIJ) status if the child turns 21 years old before being granted SIJ status or SIJ-based adjustment, or if the child is no longer dependent on the state court or eligible for long-term foster care, are consistent with statutory goal of protecting abused, neglected, and abandoned immigrant children, and their adoption of those regulations was not arbitrary and capricious. Immigration and Nationality Act, S 101(a)(27)(J), 8 U.S.C.A. S 1101(a)(27)(J); 8 C.F.R. SS 204.11(c)(1, 5), 205.1(a)(3)(iv).	"Was Special Immigrant Juvenile (SIJ) status created to protect abused, neglected, and abandoned immigrant youth through a process allowing them to become legal permanent residents?"	"Aliens, Immigration and Citizenship - Memo 118 - RK_64760.docx"	ROSS-003278551-ROSS-003278552
Fonseca v. Fong, 167 Cal. App. 4th 922	24+211	Over no conceivable subject is the legislative power of Congress more complete than it is over the admission of aliens.	Is the legislative power of Congress more complete over the admission of aliens than any other conceivable subject?	"Aliens, Immigration and Citizenship - Memo 127 - RK_64768.docx"	ROSS-003320269-ROSS-003320270
In re Estate of Nina L. ex rel. Howerton, 2015 IL App (1st) 152223	211+2066	The Special Immigrant Juvenile (SIJ) statute affirms that state courts are the appropriate forum for child welfare determinations regarding abuse, neglect, or abandonment, and a child's best interests. Immigration and Nationality Act, S 101(a)(27)(J), 8 U.S.C.A. S 1101(a)(27)(J).	Is a state court's role in the Special Immigrant Juvenile (SIJ) process to identify neglected alien children?	"Aliens, Immigration and Citizenship - Memo 155 - RK_64790.docx"	ROSS-003279698-ROSS-003279699
Sei Fujii v. State of California (1952) supra, 38 Cal.2d 718	92+3114	Even if purpose of Alien Land Law, classifying persons on basis of eligibility to citizenship, was to restrict use and ownership of land to persons who were loyal and had interest in welfare of state, classification would have been unreasonable, since ineligibility for citizenship does not establish lack of loyalty or absence of interest in welfare of country. U.S.C.A.Const. Amend. 14; St.1921, p. lxxxiii, SS 1, 2, 7.	Does eligibility to citizenship automatically engender loyalty or create an interest in the welfare of the country?	"Aliens, Immigration and Citizenship - Memo 67 - RK_64801.docx"	ROSS-003280622-ROSS-003280623
In re Hei Ting C., 109 A.D.3d 100	24+179	The Family Court's issuance of a child support order directing mother to pay child support to father did not qualify the parents' two children, who were born in Hong Kong and lived in United States with their father, as "dependent on a juvenile court" or committed to the custody of an individual appointed by a State or juvenile court, as required for the children to qualify for special immigrant juvenile status (SIJS) under federal law; the Family Court had not accepted jurisdiction over the custody of the children, there had been no need for intervention by the Family Court to ensure that the children were placed in a safe and appropriate custody, guardianship, or foster care situation, and the children had not been committed to the custody of any individual by any court. 8 U.S.C.A. S 1101(a)(27)(J)(i).	Are special findings of juvenile court necessary to permit a juvenile to file an application for Special Immigrant Juvenile (SIJ) status?	006925.docx	LEGALEASE-00160214-LEGALEASE-00160215

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Rosas v. Alice's Tea Cup, 127 F. Supp. 3d 4	24+123	The protections of the FLSA are available to citizens and undocumented workers alike; denying undocumented workers the protection of FLSA would permit abusive exploitation of workers and create an unacceptable economic incentive to hire undocumented workers by permitting employers to underpay them. Fair Labor Standards Act of 1938, S 1, 29 U.S.C.A. S 201.	Are the protections of the Fair Labor Standards Act (FLSA) available to undocumented workers?	"Aliens, Immigration and Citizenship - Memo 75 - RK_64809.docx"	ROSS-003280385-ROSS-003280386
Arizona v. United States, 567 U.S. 387	24+690	Government of United States has broad, undoubted power over subject of immigration and status of aliens, resting, in part, on its constitutional power to "establish an uniform Rule of Naturalization," and its inherent power as sovereign to control and conduct relations with foreign nations. U.S.C.A. Const. Art. 1, S 8, cl. 4.	Does the Government of the United States have the power to regulate the status of aliens?	"Aliens, Immigration and Citizenship - Memo 84 - RK_64817.docx"	ROSS-003297413-ROSS-003297414
Indiana Nat. Bank of Indianapolis v. Goss, 208 F.2d 619	8.30E+10	Under Illinois law, law of place of payment of note is the law which will govern the nature, validity, interpretation, and effect of the obligation.	Which law governs the nature and validity of note?	Bills and Notes - Memo 1397 - JK.docx	LEGALEASE-00049183-LEGALEASE-00049184
Icard v. Harbuck, 137 Ga. App. 570	83E+672	Note payable generally "after date" and not otherwise expressing time for payment is payable on demand and due immediately, bearing interest from date of demand, which is any date on and after execution.	When is an instrument payable if no time is specified for repayment?	009645.docx	LEGALEASE-00160443-LEGALEASE-00160444
R.E.B. v. State of Hawaii Dep't of Educ., 870 F.3d 1025	141E+862	IDEA required that autistic student's individualized education plan (IEP) provide transition services when student exited private school to attend public school, overruling J.M. v. Dep't of Educ., Haw., 224 F.Supp.3d 1071, Rachel L. v. Haw. Dep't of Educ., 2012 WL 4472263. Individuals with Disabilities Education Act S 614, 20 U.S.C.A. SS 1414(d)(1)(A)(i)(IV), 1414(d)(1)(A)(i)(VIII)(bb).	"Under the Individuals with Disabilities Education Act (IDEA), must schools provide for transition services when a child transfers between schools?"	017339.docx	LEGALEASE-00159931-LEGALEASE-00159933
Wellman v. Holzer, 56 N.Y.S.2d 299	156+59	The doctrine of estoppel is applied to promote justice and fair dealing and never in aid of a fraudulent purpose.	Can estoppel never be applied to aid a fraudulent purpose?	Estoppel - Memo #206 - C - CSS_64542.docx	ROSS-003294162-ROSS-003294163
Johnson v. State, 138 Md. App. 539	181+44(1)	Requisite intent to injure or defraud in context of forgery need not be proven by positive and direct evidence and may be inferred by jury from evidence before it.	Is intent to defraud an essence of forgery?	Forgery - Memo 34 - SH_64307.docx	ROSS-003296480-ROSS-003296481
City of Detroit v. Detroit United Ry., 172 Mich. 136	396A+6	A franchise granted by a municipality to a street railroad company and accepted by it constitutes in law a contract mutually binding on both parties, which is terminated by the limitation therein expressed.	Is franchise agreement a mutually binding contract upon the parties?	018496.docx	LEGALEASE-00159950-LEGALEASE-00159951
Baltimore Steam Co. v. Baltimore Gas & Elec. Co., 123 Md. App. 1	183+1	Franchise is a contract between the grantor and grantee, and since such a contract confers exceptional privileges and powers, it is to be strictly construed against the franchisee.	Is franchise a contract between grantor and grantee?	Franchises - Memo 20 - KNR_65694.docx	ROSS-003281457-ROSS-003281458
Salter v. Condon, 236 Ill.App. 17	289+525	Good will does not always exist in the case of a partnership and whether it exists or not depends upon the facts and circumstances in each case.	Does the fact whether good will exists or not depend upon the facts and circumstances in each case?	022641.docx	LEGALEASE-00160010-LEGALEASE-00160011
Matter of Minton Group, 46 B.R. 222	289+558	Tenancy in partnership is not freely alienable, and unlike tenant in common, tenant in partnership may not call for partition and sale.	Can a tenancy in partnership be freely alienable like a tenancy in common?	Partnership - Memo 545 - GP_64571.docx	ROSS-003294054
Equitable Life Assur. Soc. of U.S. v. McKeithan, 119 Fla. 486	302+17	Declaration is sufficient when it contains all essentials of cause of action whether by direct allegations or by fair inferences from direct allegations.	Should a declaration contain all the essentials of a cause of action?	023849.docx	LEGALEASE-00159770-LEGALEASE-00159771

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Harman v. Univ. of Tennessee, 353 S.W.3d 734	302+38.5	An essential purpose of the complaint is to give notice of the issues to be tried so that the opposing party can adequately prepare for trial. Rules Civ.Proc., Rule 8.01.	Is notice giving the purpose of a complaint?	023861.docx	LEGALEASE-00160016- LEGALEASE-00160017
Keough v. Cyrus USA, 204 S.W.3d 1	307A+699	The movant for reinstatement bears the burden to produce evidence supporting the motion.	Does the movant for reinstatement bear the burden to produce evidence supporting the motion?	Pretrial Procedure - Memo 11169 - C - VP_64380.docx	ROSS-003296258-ROSS-003296259
Lundburg v. Stinson, 5 Haw. App. 394	336H+286	Dismissal with prejudice is adjudication on the merits of all issues that were raised or could have been raised in the pleadings, and subsequent litigation involving same claims is barred by res judicata. Circuit Court Rule 12(b)(6).	Is a dismissal with prejudice an adjudication on the merits of all the issues that were raised or could have been raised in the pleadings?	039855.docx	LEGALEASE-00159603- LEGALEASE-00159604
Bailey v. Gitt, 135 N.C. App. 119	30+781(1)	Parents' appeal from directed verdict for health care providers on certain claims in wrongful death action was moot, where parents voluntarily dismissed with prejudice "all claims which had not previously been dismissed by the Court pursuant to defendants' motion for a directed verdict"; directed verdict order left open possibility of recovery of damages for funeral expenses and nominal damages, thus keeping alive underlying issue of negligence for determination by jury, but parents' voluntary dismissal with prejudice of negligence issue was same as judgment on merits of that issue. G.S. S 28A-18-2; Rules Civ.Proc., Rule 50(a), G.S. S 1A-1.	Is a voluntary dismissal with prejudice the same as a judgment on the merits?	Pretrial Procedure - Memo 11361 - C - SHB_64428.docx	ROSS-003294277-ROSS-003294278
Shackelford v. Arkansas Power & Light Co., 334 Ark. 634	307A+693.1	Claim against a defendant remains until the trial court enters an order of dismissal.	Does a claim against a defendant remain until the trial court enters an order of dismissal?	039867.docx	LEGALEASE-00159668- LEGALEASE-00159669
Lonestar Alternative Sol. v. Leview-Boymelgreen Soleil Developers., 10 So. 3d 1169	307A+561.1	When deciding a motion to dismiss, a trial court may not consider affirmative defenses. West's F.S.A. RCP Rule 1.140(b).	Will a court consider affirmative defenses when deciding a motion to dismiss?	Pretrial Procedure - Memo 11390 - C - DA_64444.docx	ROSS-003296306-ROSS-003296307
Sprint Spectrum, LP v. State, Dep't of Revenue, 174 Wash. App. 645	371+3602	An item of tangible personal property may not be subject both to use tax and sales tax. West's RCWA 82.12.020(1)(a) (2009).	"Is an item of tangible property subject to both, use tax and sales tax?"	046188.docx	LEGALEASE-00159734- LEGALEASE-00159735
Weber-Stephen Prod. v. Dep't of Revenue, 324 Ill. App. 3d 893	371+3602	The state "sales tax" consists of two separate, complementary taxes: the retailers' occupation tax (ROTA) and the use tax.	"What are the two separate, complementary taxes the state ""sales tax"" consists of?"	Taxation - Memo 1111 - C - VA_65679.docx	ROSS-003280599
Native Ecosystems Council v. Dombeck, 304 F.3d 886	411+8	Environmental group challenging timber sale on national forest land raised issue of Forest Plan amendment procedures before United States Forest Service (USFS) administrative decision-maker sufficiently for agency to review procedures and to conclude that it complied with National Forest Management Act (NFMA), and thus group properly exhausted its administrative remedies as to issues raised before court; decision-maker properly understood group to raise issue whether USFS complied with NFMA in amending Forest Plan road density standards, and addressed issue in its decision. Forest and Rangeland Renewable Resources Planning Act of 1974, S 2 et seq., as amended, 16 U.S.C.A. S 1600 et seq.	"While objecting to a Forest Service decision, should the claims raised at the administrative appeal and in the federal complaint be similar so as to ascertain whether the agency was on notice of the same claims raised in the federal court?"	047598.docx	LEGALEASE-00159535- LEGALEASE-00159536

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
De Haas v. Cascade Frozen Foods, 23 Wash. 2d 754	413+105	Unless an employee is engaged in one of extrahazardous occupations enumerated by statute or by Department of Labor and Industries, he is not within compulsory operation of compensation act. Rem.Rev.Stat. SS 7674, 7676.	When is an employee within the compulsory operation of the Act?	Workers Compensation - Memo 678 - C - ANC_64279.docx	ROSS-003281282
DRFP L.L.C. v. Republica Bolivariana de Venezuela, No. 16-3960, 2017 WL 3635530	8.30E+12	The Ohio Uniform Commercial Code (UCC) governs the creation, transfer, and enforceability of negotiable instruments.	"What governs the creation, transfer and enforceability of negotiable instruments?"	009681.docx	LEGALEASE-00160811-LEGALEASE-00160812
Walling v. Cushman, 238 Mass. 62	8.30E+12	Contract of indorsement being new and separate, its validity is determined generally by laws of state where made, and presumption of common law formulated in Negotiable Instruments Law is that unless contrary appears, indorsement is prima facie made at place where instrument is dated; and in suit against administrators of married woman who indorsed note dated and payable at Denver, Colo., it appearing that one note was made and indorsed in Illinois, there being no showing where others were made and indorsed, domicile of decedent was immaterial to her liability.	What law determines the validity of the contract of an indorser?	Bills and Notes -Memo 1381- JK_66282.docx	ROSS-003321102-ROSS-003321103
Thorp, Smith & Hanchett v. Craig, 10 Iowa 461	83E+675	The law of the place where a bill of exchange is payable governs as to the allowance of days of grace.	Does the law of the place where a draft is made payable govern the allowance of days of grace?	Bills and Notes -Memo 1383- JK_66284.docx	ROSS-003321854-ROSS-003321855
Wade v. Darring, 511 S.W.2d 320	8.30E+10	Where note under which endorsers brought action against makers was made payable in North Carolina, laws of North Carolina governed subsequent liability of the parties.	Does the law of the state where the note in question is made payable govern the substantive liability of the parties?	Bills and Notes -Memo 1385- JK_66285.docx	ROSS-003308816
First Nat. Bank & Tr. Co. of Augusta v. Georgia R.R. Bank & Tr. Co., 238 Ga. 693	8.30E+76	Once check had been acted upon by drawee bank, its drawer no longer had authority to stop payment. Code, SS 109A-4-303, 109A-4-403.	Can the drawer stop payment after the check had been acted upon by the bank?	Bills and Notes -Memo 61-DB_65107.docx	ROSS-003281021
United States v. Ford, 435 F.3d 204	63+14	In prosecution for accepting a bribe as an agent of an organization receiving federal funds, jury instructions, in explaining both the meaning of "corruptly" and "intending to be influenced," misstated the requisite criminal intent; instructions appeared to have told the jury that the "corruptly" requirement was fully satisfied by the recipient's knowledge of the donor's intent and omitted any reference to the recipient's intent in accepting the thing of value, and thus did not clearly communicate specific intent element requiring recipient's intent to be influenced in her official duties. 18 U.S.C.A. S 666(a)(1)(B).	"In prosecution for accepting a bribe, do jury instructions include the intent, the state of mind, of a person acting corruptly or intending to be influenced?"	Bribery - Memo 1075 - C - AV_65557.docx	ROSS-003293489-ROSS-003293490
U.S. v. Wilson, 59 F.2d 97	135H+25	Summary forfeiture, by definition, can never serve as jeopardy component of double jeopardy motion. U.S.C.A. Const.Amend. 5.	Can summary forfeiture serve as a jeopardy component of a double jeopardy motion?	015728.docx	LEGALEASE-00160719-LEGALEASE-00160720

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1, 137 S. Ct. 988	141E+862	In determining what it means to meet the unique needs of a child with a disability, as required to provide the child a free appropriate public education (FAPE), the IDEA provisions governing the individual education plan (IEP) development process are a natural source of guidance, as it is through the IEP that the free appropriate public education required by the IDEA is tailored to the unique needs of a particular child. Individuals with Disabilities Education Act, SS 602(9, 29), 614, 20 U.S.C.A. SS 1401(9, 29), 1414.	Must a Free Appropriate Public Education be specially designed to meet the unique needs of a child with a disability?	Education - Memo 316 - C - SG_65178.docx	ROSS-003279591-ROSS-003279593
Purvis v. Busey, 260 Ala. 373	200+80	The public only acquires an easement in highways, the fee of the land remains in the owner subject to the easement.	Does the fee remain with the owner when the public acquires an easement in the highway?	Highways - Memo 399 - RK.docx	LEGALEASE-00050710-LEGALEASE-00050711
Antenucci v. Hartford Roman Catholic Diocesan Corp., 142 Conn. 349	200+80	Abutting owner is presumed, no evidence to contrary, to own fee of land to center of highway, and as to land within limits of such highway, abutting owner has all rights not incompatible with public easement.	Is an abutting owner presumed to own the fee to the land to the center of the highway?	Highways - Memo 400 - RK_66329.docx	ROSS-003318955-ROSS-003318956
Hansell v. Massey, 244 Iowa 969	200+77(2)	"Interested parties" are the only ones entitled to notice of final hearing in proceedings to vacate highways and "interested parties" are those who own property to which vacation causes a special damage, separate and distinct from that suffered by general public. I.C.A. SS 306.1 et seq., 306.17, 306.18, 306.21, 306.26.	Which parties are entitled to notice of final hearing in vacation proceedings?	Highways - Memo 446 - RK_66346.docx	ROSS-003297279-ROSS-003297280
Twp. of Livingston v. Parkhurst, 122 N.J.L. 598	64+21(7)	One driving a heavy truck, to which was attached a trailer loaded with a gasoline shovel, was entitled to use a public bridge and highway, but was under a duty to use reasonable care not to cause damage to highway or bridge.	Is there a duty to use reasonable care so as not to cause damage to highways and bridges?	Highways - Memo 455 - RK_66355.docx	ROSS-003325842-ROSS-003325843
Minnie Creek Drainage Dist. v. Streeter, 327 Ill. 236	200+80	Public has but easement in highway, and owner may exercise every right not inconsistent therewith.	Can the fee owner exercise every right of ownership not inconsistent with the easement of the public?	018889.docx	LEGALEASE-00161821-LEGALEASE-00161822
Shindler v. Marr & Associates, 695 S.W.2d 699	289+1110	Strict compliance with applicable statutes is not required for formation of a limited partnership. Vernon's Ann.Texas Civ.St. art. 6132a, S 3(b).	Is strict compliance with the applicable statues required for the formation of a limited partnership?	Partnership - Memo 563 - GP_65235.docx	ROSS-003283084-ROSS-003283085
Hanson v. Birmingham, 92 F.Supp. 33	289+451	At common law if essential elements of a partnership are not present, a partnership will not be declared to exist even though parties designate their arrangements as partnership.	Does a partnership exist if any of the essential elements is absent?	022667.docx	LEGALEASE-00161323-LEGALEASE-00161324
Dobson v. Mortg. Elec. Registration Sys./GMAC Mortg. Corp., 259 S.W.3d 19	302+408	Because the failure to state a cause of action is a jurisdictional defect, it may be raised at any time during the proceedings.	Is the failure to state a cause of action a jurisdictional defect?	023879.docx	LEGALEASE-00161249-LEGALEASE-00161250
Phillips v. Bradshaw, 859 S.W.2d 232	307A+622	Pleading which states no cause of action confers no subject matter jurisdiction on court and is subject to dismissal.	"Is a pleading which states no cause of action, subject to dismissal?"	Pleading - Memo 611 - RMM_65796.docx	ROSS-003295328-ROSS-003295329
Braddock v. Zimmerman, 906 A.2d 776	307A+695	A complaint that is dismissed without prejudice but with express leave to amend is nevertheless a dismissed complaint.	Is a complaint that is dismissed without prejudice with express leave to amend nevertheless a dismissed complaint?	Pretrial Procedure - Memo 11590 - C - NE_65608.docx	ROSS-003280553-ROSS-003280554
Williams v. Bank of Tallassee, 456 So. 2d 50	307A+695	When motions to dismiss are granted, plaintiff should always be afforded leave to amend.	"When motions to dismiss are granted, should a plaintiff always be afforded leave to amend?"	040345.docx	LEGALEASE-00161138-LEGALEASE-00161139
Pinson v. Grimes, 42 So. 3d 650	307A+583	The circuit court has the inherent power to dismiss an action for the failure to prosecute.	Does the circuit court have the inherent power to dismiss an action for the failure to prosecute?	040413.docx	LEGALEASE-00160731-LEGALEASE-00160732

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Snelling v. Beck, 207 S.W.3d 202	307A+583	A dismissal for failure to prosecute is within the trial court's discretion and appellate court reviews for an abuse of that discretion.	Is a dismissal for failure to prosecute within the trial court's discretion?	040449.docx	LEGALEASE-00161044-LEGALEASE-00161045
Tyler v. United States, 281 U.S. 497	371+2003	Power of taxation is fundamental and imperious necessity of all government, not to be restricted by mere legal fictions.	Is the power of taxation is a fundamental and imperious necessity of all government?	046293.docx	LEGALEASE-00161687-LEGALEASE-00161688
John Hancock Mut. Life Ins. Co. v. Fid.-Baltimore Nat. Bank & Tr. Co., 212 Md. 506	8.30E+10	Generally, law governing a bill or note is the law which the parties to the instrument intend to govern, and, therefore, if bill or note contains express provision that it shall be governed by laws of a particular state, such laws will govern.	Is it generally to be conceded that the proper law governing a bill or note is the law which the parties to the instrument intended to govern?	Bills and Notes - Memo 1344 - RK_66247.docx	ROSS-003280454-ROSS-003280455
Lifanda v. Elmhurst Dodge, 237 F.3d 803	172H+1342	Court views the sufficiency of TILA-mandated disclosures from the standpoint of an ordinary consumer, not the perspective of a Federal Reserve Board member, federal judge, or English professor. Truth in Lending Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.	How is the sufficiency of TILA mandated disclosures determined?	013854.docx	LEGALEASE-00162596-LEGALEASE-00162597
Allen v. Illinois Cmty. Coll. Bd., 315 Ill. App. 3d 837	141E+993	Community college districts are created by the legislature pursuant to its authority to create public corporations, not under any provision of the State Constitution; thus, the rules pertaining to public elementary and secondary schools do not apply to community colleges. S.H.A. Const. Art. 10, S 1.	Are community college districts created by the legislature?	Education - Memo 354 - C - ATS_65921.docx	ROSS-003279992-ROSS-003279993
In re Acosta, 182 B.R. 561	156+52.10(1)	Under California law, waiver requires sufficient awareness of relevant circumstances and likely consequences.	Does waiver require sufficient awareness of the relevant circumstances and likely consequences?	018154.docx	LEGALEASE-00162265-LEGALEASE-00162266
United Cities Gas Co. v. Brock Expl. Co., 995 F. Supp. 1284	95+227	Although waiver of contractual right under Kansas law is consensual in nature, party's intention may be inferred from its conduct and requisite knowledge may be actual or constructive.	Is waiver consensual in nature?	018163.docx	LEGALEASE-00162278-LEGALEASE-00162279
Salem Cmty. Sch. Corp. v. Richman, 406 N.E.2d 269	156+52.10(2)	"Waiver" is election to forego some advantage that might otherwise have been insistent upon; existence of waiver is ordinarily determined from conduct of parties making it.	Is waiver an election to forego some advantage that might otherwise have been insisted upon?	018165.docx	LEGALEASE-00162280-LEGALEASE-00162281
Wendling v. State, 465 N.E.2d 169	181+4	Knowledge of falsity of written instrument is not a separate essential element of present crime of forgery.	Is knowledge of falsity of the instrument an essential element of forgery?	Forgery - Memo 50 - SNJ_65765.docx	ROSS-003279852-ROSS-003279853
United States v. Gomes, 969 F.2d 1290	181+4	A bogus document is "counterfeit" if it is calculated to deceive honest, sensible and unsuspecting person of ordinary observation and care dealing with person supposed to be upright and honest.	What is a counterfeit?	018471.docx	LEGALEASE-00161988-LEGALEASE-00161989
Hillme v. Chastain, 75 S.W.3d 315	289+429	A voice in the management of the partnership business, a share of the profits of the partnership business, and a corresponding risk of loss and liability to partnership creditors are all indications of a partnership.	Is right to a voice in management of the partnership business an indicia of a partnership relationship?	022690.docx	LEGALEASE-00162228-LEGALEASE-00162229
Copland v. Commissioner of Internal Revenue, 41 F.2d 501	289+432	Special agreements for particular adventures and join undertakings limited in character do not constitute "partnerships."	Do special agreements for particular adventure and joint undertakings constitute partnership?	022745.docx	LEGALEASE-00162530-LEGALEASE-00162531
Cornelius v. River Ridge Ranch Landowners Ass'n, 202 P.3d 564	307A+583	The power to dismiss for failure to prosecute is in the sound discretion of the trial court.	Is the power to dismiss for failure to prosecute in the sound discretion of the trial court?	040625.docx	LEGALEASE-00162516-LEGALEASE-00162517
Westlake Transp. v. Pub. Serv. Comm'n, 255 Mich. App. 589	371+2002	Taxes have a primary purpose of raising revenue, while fees are usually in exchange for a service rendered or a benefit conferred.	Do taxes and fees differ in primary purpose?	Taxation - Memo 1036 - C - JL_66479.docx	ROSS-003280760-ROSS-003280761

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Bies, 258 Minn. 139	371+3530	The obligation of citizens to pay state income taxes is purely statutory, and taxes can be levied, assessed, and collected only in the method pointed out by the statute. M.S.A. S 290.01 et seq.	Is the obligation to pay taxes a statutory creation?	Taxation - Memo 1072 - C - KI_65673.docx	ROSS-003282090-ROSS-003282091
U.S. Fid. & Guar. Co. v. State ex rel. Oklahoma Tax Comm'n, 2002 OK 42, 14, 54 P.3d 1010	371+3602	A "sales tax" is a statutorily imposed burden on the sale of goods and based on their value.	"Is a ""sales tax"" a statutorily imposed burden on the sale of goods and based on their value?"	046247.docx	LEGALEASE-00161916-LEGALEASE-00161917
Safe Deposit & Tr. Co. of Baltimore, Md., v. Commonwealth of Virginia, 280 U.S. 83	371+2008	State law undertaking to tax things beyond jurisdiction conflicts with Federal Constitution. U.S.C.A.Const. Amend. 14.	Does a statute of a state conflict with the Constitution if such statute undertakes to tax things beyond its jurisdiction?	Taxation - Memo 1192 - C - JL_66002.docx	ROSS-003294616-ROSS-003294617
State v. Murphy, 545 N.W.2d 909	3.77E+11	Terroristic threats statute is designed to deter and punish future act threatened, as well as underlying act of making threat; statute mandates that threats must be to commit future crime of violence which would terrorize victim. M.S.A. S 609.713, subd. 1.	What are the terroristic threats statute designed to deter and punish?	046973.docx	LEGALEASE-00162200-LEGALEASE-00162201
Jett v. Dunlap, 179 Conn. 215	413+2093	Principal that Workmen's Compensation Act is sole remedy against employer where a worker's personal injury is covered by Act is not eroded when employee alleges an intentional tort by his supervisor. C.G.S.A. S 31-284(a).	"Under the Workers' Compensation Act, does the employee surrender his right to bring a common law action against the employer limiting the employers liability to the statutory amount?"	048622.docx	LEGALEASE-00162382-LEGALEASE-00162383
Bologna Bros. v. Morrissey, 154 So. 2d 455	8.30E+10	Legal effect of notes is governed by law of country where they were executed and delivered; this rule applies to accommodation paper.	Is the legal effect of promissory notes governed by the law of the countrywhere they were executed and delivered?	Bills and Notes - Memo 1349 - RK.docx	LEGALEASE-00052477-LEGALEASE-00052478
Corbin Russwin v. Alexander's Hardware, 147 N.C. App. 722	95+129(1)	"Forum selection clause" designates the venue of any potential conflict arising out of a contract, whereas a "consent to jurisdiction clause" waives personal jurisdiction and venue, and a "choice of law clause" designates the law to be applied.	What does a choice of law clause designate?	Bills and Notes - Memo 1358 - RK_66260.docx	ROSS-003285773-ROSS-003285774
Res. Holding Corp. v. Schoff's Estate, 105 Vt. 144	8.30E+10	Parties' rights held governed by law of jurisdiction in which note was made and delivered.	Are the rights of parties governed by the law of the jurisdiction were a note is made and delivered?	009246.docx	LEGALEASE-00162737-LEGALEASE-00162738
Hongkong & Shanghai Banking Corp. v. Lazard-Godchaux Co. of Am., 207 A.D. 174	8.30E+10	The law of the place of payment as to days of grace on a foreign bill of exchange applies.	Will the law of the place of payment apply to a foreign bill of exchange?	Bills and Notes - Memo 1369 - RK_66270.docx	ROSS-003292291-ROSS-003292292
Smith v. Thirty-Seventh Judicial Circuit of Missouri, 847 S.W.2d 755	413+186	Right of control over employee, not source of funds by which employee is paid, determines who is employer for workers' compensation purposes. V.A.M.S. SS 105.800, 287.120, subd. 1.	"In workers compensation, is it the right to control or the source of funds that determines who the employer is?"	Workers' Compensation - Memo 726 - C - ANC_67093.docx	ROSS-003291846-ROSS-003291847
Davis v. Brown, 87 N.Y.2d 626	110+867.23	Defendant could modify or limit his motion for mistrial before motion was granted, to specify that he was requesting only mistrial with prejudice, such that trial judge's subsequent grant of mistrial without prejudice was granted without defendant's consent.	"Can a defendant modify or limit his motion for mistrial before a motion was granted, to specify that he was requesting only mistrial with prejudice?"	015281.docx	LEGALEASE-00162893-LEGALEASE-00162894

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Bowers v. Shinseki, 26 Vet. App. 201	34+104.3(5)	To receive Department of Veterans Affairs (VA) disability compensation benefits, a claimant must first establish veteran status, and, absent established veteran status, presumptions of service connection are not applicable. 38 U.S.C.A. S 101(2, 22, 24); 38 C.F.R. S 3.318.	Is veterans status required to be eligible for Veterans Affairs (VA) disability compensation benefits?	008820.docx	LEGALEASE-00163902-LEGALEASE-00163903
United States v. Sligh, 31 F.2d 735	34+73(2)	Term "total and permanent disability," within World War Veterans' Act, does not mean absolute incapacity to do any work. World War Veterans' Act 1924, 38 U.S.C.A. SS 101, 102, 109, 210 et seq., 301, 302, 314, 351, 355, 501, 503, 537 et seq., 611, 621, 625, 626, 741 et seq., 3001, 3010, 3022, 3101 et seq., 3201-3203, 3301, 3304, 3401, 3404, 3405, 3501 et seq., 5001 et seq.	Does the term total and permanent disability mean that there is proof of absolute incapacity to do any work at all?	Armed Services - Memo 354 - RK_66874.docx	ROSS-003292444-ROSS-003292445
Young v. United States, 94 Fed. Cl. 671	34+136	As an administrative body within the Department of Veterans Affairs, the Board of Veterans' Appeals is not a "court" as defined by the transfer statute. 28 U.S.C.A. SS 610, 1631.	Are administrative bodies like the Board of Veterans' Appeals considered courts?	008861.docx	LEGALEASE-00163934-LEGALEASE-00163935
Georgia R.R. Bank & Tr. Co. v. First Nat. Bank & Tr. Co. of Augusta, 139 Ga. App. 683	172H+593	Where item had been "finally paid" by drawee prior to drawer's attempted revocation thereof, right to revoke settlement was lost. Code, S 109A-4-213(1).	Can a drawer revoke a check after it is finally paid?	009338.docx	LEGALEASE-00163029-LEGALEASE-00163031
Carter v. Marion, 183 N.C. App. 449	79+6	Political affiliation was an appropriate employment requirement for deputy clerks of the superior court, and thus, newly elected clerk was entitled to terminate deputy clerks based on their political affiliation; deputy clerks served at the pleasure of the elected clerk, they took an oath of office, and they served as the public face of the clerk's office. West's N.C.G.S.A. S 7A-102(a).	Is political affiliation an appropriate requirement for a deputy clerk of the superior court?	013564.docx	LEGALEASE-00164120-LEGALEASE-00164121
AFSCME Council 25 v. Wayne Cty., 292 Mich. App. 68	79+66	Under the judicial branch's inherent constitutional authority the circuit court judges had the exclusive authority to make the determination with respect to the assignment or selection of a particular court clerk to serve in a judge's courtroom; therefore, a local administrative order of circuit court, which required the county clerk to assign a court clerk to a presiding judge's courtroom on the basis of the judge's selection of a clerk from the appropriate pool, was a proper exercise of the circuit court's exclusive judicial authority under the Michigan Constitution, and it was permissible because it concerned internal court management, even though it conflicted with collective bargaining agreement and arbitrator's ruling. M.C.L.A. Const. Arts. 3, S 2, 6, SS 1, 5; MCR 8.112(B)(1).	Does a circuit judge have the authority to select and assign his courtroom clerk?	013572.docx	LEGALEASE-00164094-LEGALEASE-00164095
State ex rel. Core v. Merrifield, 202 W. Va. 100	79+6	A circuit judge has complete control of the deputy circuit clerk assigned to her court. Const. Art. 8, S 3.	Does a circuit judge have complete control of the deputy circuit clerk assigned to her court?	013579.docx	LEGALEASE-00164102-LEGALEASE-00164103
Oglesby v. Deal, 311 Ga. App. 622	135+2	In general, one's legal residence for the purpose of being sued in the state is the same county as her domicile.	Is one's legal residence for the purpose of being sued in the state the same county as her domicile?	Domicile - Memo 47 - C - AJ_67126.docx	ROSS-003279511-ROSS-003279512
Abarca v. State, 256 Ga. App. 37	135H+59	Defendant had been placed in jeopardy, for double jeopardy purposes, before the earlier trial was terminated due to want of prosecution since the previous jury had been impaneled and sworn. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 1, Par. 18.	Can a defendant be placed in jeopardy before the earlier trial was terminated?	Double Jeopardy - Memo 1082 - C - TM_67988.docx	ROSS-003280312-ROSS-003280313

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Abarca v. State, 256 Ga. App. 37	135H+59	Defendant had been placed in jeopardy, for double jeopardy purposes, before the earlier trial was terminated due to want of prosecution since the previous jury had been impaneled and sworn. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 1, Par. 18.	Why would a defendant be placed in jeopardy before the earlier trial is terminated?	Double Jeopardy - Memo 1083 - C - TM_67989.docx	ROSS-003280232-ROSS-003280233
Ex parte Hayes, 931 S.W.2d 721	135H+59	For purposes of state constitutional double jeopardy prohibition, jury is considered "impaneled" only after all twelve jurors, plus any alternates, have been qualified and accepted and jury, as a whole, is given requisite oath. Vernon's Ann.Texas Const. Art. 1, S 14.	"When is a jury considered ""impaneled""?"	Double Jeopardy - Memo 1100 - C - NS_68005.docx	ROSS-003295281
United States v. Gallardo, 915 F. Supp. 216	135H+25	Jeopardy does not attach in civil forfeiture proceeding until final judgment is entered. U.S.C.A. Const.Amend. 5.	Does jeopardy not attach in a civil forfeiture proceeding until final judgment is entered?	Double Jeopardy - Memo 236 - C - BP_66755.docx	ROSS-003281039-ROSS-003281040
Camden v. Circuit Court of Second Judicial Circuit, Crawford Cty., Ill., 892 F.2d 610	135H+96	When defendant consents to mistrial, double jeopardy clause will bar retrial only if governmental or judicial conduct was intended to goad defendant into assenting to mistrial. U.S.C.A. Const.Amend. 5.	"Does the double jeopardy clause bar retrial unless the district court's mistrial declaration was occasioned by manifest necessity, or consented to by the defendant?"	015266.docx	LEGALEASE-00163701-LEGALEASE-00163702
State v. Swartz, 541 N.W.2d 533	135H+108	Prosecutorial misconduct exception to rule that double jeopardy does not bar retrial of defendant after mistrial declared at defendant's request did not apply to defendant, whose conviction was reversed due to prosecutor's deliberate use of perjured testimony which likely influenced outcome of trial and where no motion for mistrial based on prosecutorial misconduct was made. U.S.C.A. Const.Amend. 6.	Does double jeopardy not bar retrial of a defendant after mistrial declared at a defendant's request?	Double Jeopardy - Memo 303 - C - PC_66597.docx	ROSS-003293263-ROSS-003293264
Alston v. State, 177 Md. App. 1	135H+95.1	A defendant can be put in jeopardy even in a prosecution that did not culminate in a conviction or an acquittal; this doctrine refers to the species of double jeopardy law known as retrial following mistrial. U.S.C.A. Const.Amend. 5.	Can a defendant be put in jeopardy even in a prosecution that did not culminate in a conviction or an acquittal?	015447.docx	LEGALEASE-00163503-LEGALEASE-00163504
Torres v. K-Site 500 Assocs., 632 So. 2d 110	156+52.10(3)	Party may waive any rights to which he or she is legally entitled, by actions or conduct warranting inference that known right has been relinquished.	Can a party waive any rights to which he is entitled?	018216.docx	LEGALEASE-00162997-LEGALEASE-00162998
In re Tracy B., 391 S.C. 51	203+530	"Malice," as element of murder, is the wrongful intent to injure another and indicates a wicked or depraved spirit intent on doing wrong. Code 1976, S 16-3-10.	Does malice indicate a wicked or depraved spirit intent on doing wrong?	019391.docx	LEGALEASE-00164052-LEGALEASE-00164053
Com. v. Neves, 474 Mass. 355	203+530	In a nonfelony-murder case, fact that shooting was accidental negates malice element required for murder.	Does shooting by accident negate the malice element required for murder?	019397.docx	LEGALEASE-00164058-LEGALEASE-00164059
State v. Rich, 132 N.C. App. 440	203+546	"Wickedness of disposition, hardness of heart, cruelty, recklessness of consequences, and a mind regardless of social duty and deliberately bent on mischief" are examples, any one of which may provide the malice necessary to convict a defendant of second-degree murder. G.S. S 14-17.	Does malice include cruelty?	019410.docx	LEGALEASE-00164038-LEGALEASE-00164039
Robinson v. Estate of Jester, 333 Ga. App. 41	302+46	The names of the parties to an action must appear either in the caption of the petition or in the body thereof.	Should the names of the parties to an action appear in the caption of the petition?	023933.docx	LEGALEASE-00163372-LEGALEASE-00163373
Gehrke v. State, 363 S.W.2d 490	302+43	Misnomer does not change nature of a pleading, and jurisdiction of the court is invoked even though improperly styled and docketed. Rules of Civil Procedure, rule 71.	Does a misnomer change the nature of a pleading?	023941.docx	LEGALEASE-00163585-LEGALEASE-00163586

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
K.O. Real Estate v. O'Toole, 291 S.W.3d 780	228+252(1)	Lessor's petition placed tenant on notice that lessor was seeking possession, and thus trial court could award lessor possession, even though merely titling the cause of action as "Rent and Possession" or including a request for possession in its prayer and relief did not adequately plead a case of possession, where lessor attached lease as part of its petition, lease included provisions setting forth lessor's entitlement to possession upon non-payment of rent, lessor pled facts in its petition giving rise to its entitlement to possession, and evidence was presented during trial that lessor was seeking everything under the lease including possession.	Is the prayer a part of the petition?	023947.docx	LEGALEASE-00163735- LEGALEASE-00163736
Iole v. W. Auto Supply Co., 352 Pa. Super. 528	30+70(0.5)	Appellate rule permitted taking of appeal from court's determination that plaintiffs had not excused their failure to timely file complaint made on plaintiffs' petition to open or strike non pros judgment, even though the order appealed from was interlocutory, limiting Erie Human Relations Commission v. Erie Insurance Exchange, 304 Pa.Super. 172, 450 A.2d 157, holding that exceptions to judgment of non pros would be treated as reconsideration motion and did not toll statute of limitations to permit appeal beyond 30-day appeal period to the facts of the case. Rules App.Proc., Rule 311(a)(1), 42 Pa.C.S.A.	"Before a judgment of non pros can be opened, should the petition to open be timely filed?"	040664.docx	LEGALEASE-00163046- LEGALEASE-00163047
Broome v. State Dep't of Corr., 330 Wis. 2d 792	30+3896	In examining the complaint on motion to dismiss for failure to state a claim, the Court of Appeals take the allegations as true, construing them liberally in the plaintiff's favor. W.S.A. 802.06(2)(b).	"When a plaintiff is faced with a motion to dismiss for failure to state a claim and recognizes that the complaint does not allege all facts necessary to state a claim, is the proper procedure to amend the complaint?"	Pretrial Procedure - Memo 12134 - C - VP_66711.docx	ROSS-003292709-ROSS- 003292710
People v. Marino, 388 Ill. 203	352H+99	The gist of offense of assault with intent to commit rape is specific intent charged.	Is specific intent charged considered as the gist of the offense of assault with intent to commit rape?	043127.docx	LEGALEASE-00164070- LEGALEASE-00164071
Executone Info. Sys. v. Davis, 26 F.3d 1314	25T+183	Federal law does not impose any requirements as to how specific notice of arbitration must be.	Does federal law impose any requirements as to how specific a notice of arbitration must be?	008101.docx	LEGALEASE-00165065- LEGALEASE-00165066
Booker v. Ward, 94 F.3d 1052	241+104.5	Doctrine of equitable tolling provides that person is not required to sue within statutory limitations period if he cannot, under the circumstances, reasonably be expected to do so.	What is the doctrine of equitable tolling?	008103.docx	LEGALEASE-00165067- LEGALEASE-00165068
Ackerman v. Tobin, 22 F.2d 541	108H+59	Unadjusted claim for loss under insurance policy is generally held to be subject to garnishment.	Are unadjusted claims for loss under an insurance policy subject to garnishment?	Creditors' Remedies - Memo 34 - RK_67503.docx	ROSS-003305712-ROSS- 003305713
In re Steele, 323 B.R. 776	135+2	Under Florida law, fact that person arranges for his mail to be left at particular address does not make him a "resident" at that address.	"Does the fact that a person arranges for his mail to be left at particular address not make him a ""resident"" at that address?"	014585.docx	LEGALEASE-00164234- LEGALEASE-00164235
Dickey v. McComb Dev. Co., 115 S.W.3d 42	322H+948	The fact that an individual leases the abode while physically absent from it does not mean, by itself, that the abode is no longer his "residence" for purposes of statute mandating 60-day notice period for cure of default on property used as "residence" before vendors can terminate sale contract. V.T.C.A., Property Code SS 5.061-5.063.	"If one leases the abode while physically absent from it does not mean, in and of itself, that the abode was no longer his residence?"	014591.docx	LEGALEASE-00164244- LEGALEASE-00164245

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Watts, 519 U.S. 148	135H+30	Sentencing enhancements do not punish defendant for crimes of which he was not convicted, but rather increase his sentence because of manner in which he committed crime of conviction. U.S.C.A. Const.Amend. 5.	Do sentencing enhancements punish defendant for crimes of which he was not convicted?	015021.docx	LEGALEASE-00164663-LEGALEASE-00164664
State v. Edwards, 510 S.W.3d 374	135H+1	The protection against double jeopardy is a constitutional right addressing the power of the State to bring a charge against an accused. U.S. Const. Amend. 5.	Is protection against double jeopardy a constitutional right?	Double Jeopardy - Memo 845 - C - VA_67567.docx	ROSS-003278692
Commonwealth v. Angus, 450 S.W.3d 719	135H+59	When a bench trial is held, jeopardy attaches when the first witness is sworn. U.S. Const. Amend. 5; Ky. Const. S 13.	Can a jeopardy be attached when the first witness is sworn when a bench trial is held?	Double Jeopardy - Memo 990 - C - PC_67721.docx	ROSS-003279425-ROSS-003279426
State v. Yetman, 516 S.W.3d 33	135H+7	Because jeopardy attaches before the judgment becomes final, the constitutional protection against double jeopardy embraces the defendant's valued right to have his trial completed by a particular tribunal. U.S. Const. Amend. 5.	Will a defendant be placed in jeopardy when the jury is empaneled and sworn?	Double Jeopardy - Memo 999 - C - PC_67730.docx	ROSS-003294199-ROSS-003294200
Dombrosky v. Farmers Ins. Co. of Washington, 84 Wash. App. 245	156+54	No estoppel arises if injured party had equal opportunity to determine facts.	Does estoppel arise if the injured party had equal opportunity to determine the facts?	Estoppel - Memo 314 - C - CSS_67196.docx	ROSS-003281380-ROSS-003281381
In re Estate of Long, 311 Ill. App. 3d 959	233+531	A farm tenancy is a personal services contract in which the tenant is expected to perform services that require skill and judgment.	Are farm tenancies considered personal service contracts?	021032.docx	LEGALEASE-00164971-LEGALEASE-00164972
Gregg v. Rauner, 84 N.E.3d 572	92+2392	The Governor's executive clemency powers are extremely broad and cannot be controlled by either the courts or the legislature.	Can the Governors clemency power be controlled by the legislature or the courts?	Pardon and Parole - Memo 1 - RK_67516.docx	ROSS-003292037-ROSS-003292038
Shell v. Conrad, 153 S.W.2d 384	302+376	Facts alleged in a petition or complaint and not denied by answer stand admitted and need not be proved.	"Should facts alleged in petition and not denied by answer, be proved?"	Pleading - Memo 651 - RMM_67283.docx	ROSS-003283256-ROSS-003283257
Web Press Servs. Corp. v. New London Motors, 203 Conn. 342	302+388	Court will overlook variance between pleadings and proof, unless variance is so material that it prejudices other party in presentation of case. Practice Book 1978, S 178.	Will the court overlook a variance between the pleadings and proof?	023967.docx	LEGALEASE-00164485-LEGALEASE-00164486
City of Tyler v. Beck, 198 S.W.3d 1	307A+583	The trial court has inherent authority to dismiss any case before it for want of prosecution.	Does the trial court have the inherent authority to dismiss any case before it for want of prosecution?	Pretrial Procedure - Memo 12209 - C - PC_67303.docx	ROSS-003283271-ROSS-003283272
Hillsborough Cty. v. Kortum, 585 So. 2d 1029	371+2311	Property subject to easement held by government unit is not immune or exempt from taxation.	Is a property subject to easement held by government immune or exempt from taxation?	046454.docx	LEGALEASE-00164549-LEGALEASE-00164550
City of Egg Harbor City v. Cty. of Atl. Cty., 10 N.J. Tax 7	371+2311	Property owned by county, leased to Department of Corrections and operated by private profit-making entity as juvenile detention facility was exempt from local property taxation, as publicly owned property, used for a public purpose, regardless of whether DOC had authority to contract with for-profit entity. N.J.S.A. 30:1B-8, 30:4-91.2, 54:4-3.3.	Is a lease of public property for private purposes exempt from local property taxation?	046476.docx	LEGALEASE-00164691-LEGALEASE-00164692
Andrews v. Pal-Mar Water Control Dist. Dep't of Revenue, 388 So. 2d 4	371+2315	The state and its political subdivisions are immune from taxation since there is no power to tax them.	Is the state and its political subdivisions immune from taxation since there is no power to tax them?	046486.docx	LEGALEASE-00164707-LEGALEASE-00164708
State v. Espinoza, 233 Ariz. 176	135H+59	Defendant is placed in jeopardy once he is put to trial before a jury so that if the jury is discharged without his consent he cannot be tried again. U.S.C.A. Const.Amend. 5.	Why will a defendant be placed in jeopardy once he is put to trial before a jury?	014617.docx	LEGALEASE-00165265-LEGALEASE-00165266

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State v. Triplett, 355 S.W.3d 543	135H+59	In a court-tried case, jeopardy attaches once evidence has been presented as to the merits of the issue of guilt; however, if the proceeding is designed to hear the accused's defenses or objections before trial, and no determination of factual guilt or innocence is made or attempted, then jeopardy does not attach. U.S.C.A. Const.Amend. 5.	Will jeopardy attach once evidence has been presented as to the merits of the issue of guilt?	014649.docx	LEGALEASE-00165451-LEGALEASE-00165452
Martinez v. Caldwell, 644 F.3d 238	135H+59	Under Double Jeopardy Clause, a defendant has a right to a complete trial by the jury first selected and impaneled. U.S.C.A. Const.Amend. 5.	Does a defendant have a right to a complete trial by the jury first selected and impaneled?	Double Jeopardy - Memo 1030 - C - KG_67852.docx	ROSS-003279190-ROSS-003279191
People v. Moyer, 292 A.D.2d 793	135H+59	Defendant's retrial was not barred by double jeopardy; jeopardy never attached at first trial because entire jury had not been impaneled and sworn at time of declaration of mistrial.	Is jeopardy attached when jury has not been impaneled?	Double Jeopardy - Memo 1062 - C - VA_67984.docx	ROSS-003279686-ROSS-003279687
State v. Rowe, 480 A.2d 778	135H+59	It is a fundamental principle of criminal law that in criminal prosecution tried to jury, jeopardy attaches as soon as jury is impaneled and sworn. U.S.C.A. Const.Amend. 5; M.R.S.A. Const. Art. 1, S 8.	Can a jury trial commence till jury is sworn to determine when jeopardy attaches?	014752.docx	LEGALEASE-00166006-LEGALEASE-00166007
Honester v. State, 329 Ga. App. 406	135H+7	Once a defendant's jury is impaneled and sworn, jeopardy attaches, and he is entitled to be acquitted or convicted by that jury. U.S.C.A. Const.Amend. 5.	Is a defendant entitled to be acquitted or convicted by the jury who is impaneled and sworn?	Double Jeopardy - Memo 1080 - C - TM_67986.docx	ROSS-003281369-ROSS-003281370
State v. Battle, 279 N.C. 484	135H+95.1	Generally, an order of mistrial in a criminal case will not support a plea of former jeopardy. G.S. SS 7A-31(b) (4), 14-89.1.	"Generally, will an order of mistrial not support a plea of former jeopardy?"	Double Jeopardy - Memo 778 - C - NS_67783.docx	ROSS-003320765-ROSS-003320766
Reed v. State, 157 Tex. Crim. 585	135H+100.1	If one is acquitted of being an habitual criminal, he cannot again be prosecuted for habitual criminality, absent intervening conviction of one of required triggering felonies.	"If one is acquitted of being a habitual criminal, can he again be prosecuted for habitual criminality?"	016336.docx	LEGALEASE-00165659-LEGALEASE-00165660
People v. Jackson, 178 Cal. App. 4th 590	135H+100.1	If defendant is put in jeopardy for a number of offenses and jury acquits defendant of all offenses defendant cannot be tried again for those offenses. Const. art. 1, S 6; U.S.C.A.Const. Amend. 5.	"If a defendant is put in jeopardy for a number of offenses and the jury acquits the defendant of all of them, can the defendant be tried again for those offenses?"	016342.docx	LEGALEASE-00165583-LEGALEASE-00165584
Ex parte Pritzkau, 391 S.W.3d 185	135H+6	The Fifth Amendment's Double Jeopardy Clause protects against repeated prosecutions for the same offense. U.S.C.A. Const.Amend. 5.	Are repeated prosecutions for the same offense protected by the double jeopardy clause?	016479.docx	LEGALEASE-00165283-LEGALEASE-00165284
Smith v. State Indus. Comm'n, 1938 OK 167	135H+1	Prohibition against double jeopardy precludes dual convictions for the same criminal act. U.S.C.A. Const.Amend. 5.	Is prohibition against double jeopardy preclude dual convictions for the same criminal act?	Double Jeopardy - Memo 931 - C - NE_67805.docx	ROSS-003305652-ROSS-003305653
Walck v. Edmondson, 472 F.3d 1227	135H+1	Under the double jeopardy clause, a state is prohibited from putting a criminal accused twice in jeopardy for the same crime. U.S.C.A. Const.Amend. 5.	Is a state prohibited from putting a criminal accused twice in jeopardy for the same crime?	Double Jeopardy - Memo 946 - C - KS_67820.docx	ROSS-003292490-ROSS-003292491
State v. Atkins, 130 Wash. App. 395	135H+1	Both the United States Constitution and the Washington State Constitution prohibit multiple convictions for the same offense. U.S.C.A. Const.Amend. 5; West's RCWA Const. Art. 1, S 9.	Does both the United States Constitution and the Washington State Constitution prohibit multiple convictions for the same offense?	Double Jeopardy - Memo 949 - C - KS_67823.docx	ROSS-003281461-ROSS-003281462
Khalifa v. State, 382 Md. 400	135H+1	The Double Jeopardy Clause forbids multiple convictions and sentences for the same offense. U.S.C.A. Const.Amend. 5.	Does the Double Jeopardy Clause forbid multiple convictions and sentences for the same offense?	016603.docx	LEGALEASE-00165419-LEGALEASE-00165420
United States v. Holley, 986 F.2d 100	135H+59	Double jeopardy clause is not absolute bar to reprosecution once jury has been empaneled and sworn. U.S.C.A. Const.Amend. 5.	Will the double jeopardy clause be an absolute bar to re-prosecution once jury has been empanelled and sworn?	016628.docx	LEGALEASE-00165447-LEGALEASE-00165448

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In re Brankle Brokerage & Leasing, 394 B.R. 906	349A+10	Under North Carolina law, equity in "lessee" is one of distinctive characteristics of lease intended for security.	"Is equity in ""lessee"" one of distinctive characteristics of a lease intended for security?"	Secured Transactions - Memo 43 - C - PC_68072.docx	ROSS-003293903-ROSS-003293904
People v. Miller, 164 Cal. App. 4th 653	135H+30	Double jeopardy protections do not apply to the trial of prior conviction allegations. U.S.C.A. Const.Amend. 5.	Do double jeopardy protections apply to the trial of prior conviction allegations?	Double Jeopardy - Memo 1154 - C - SHB_68238.docx	ROSS-003280974-ROSS-003280975
State v. Daniels, 160 Wash. 2d 256	135H+100.1	While jury silence can be construed as an acquittal and can therefore act to terminate jeopardy, such is not the case when a jury fails to agree and such disagreement is evident from the record. U.S.C.A. Const.Amend. 5; West's RCWA Const. Art. 1, S 9.	Can jury silence be construed as an acquittal and can therefore act to terminate jeopardy?	Double Jeopardy - Memo 506 - C - SN_68285.docx	ROSS-003281835-ROSS-003281836
State v. Juarez, 115 Wash. App. 881	135H+99	A mistrial will free defendant from further prosecution, unless it is prompted by manifest necessity; this means that extraordinary and striking circumstances must be present which clearly indicate that substantial justice cannot be obtained without discontinuing the trial.	"Will a mistrial free a defendant from further prosecution, unless it is prompted by manifest necessity?"	015940.docx	LEGALEASE-00166299-LEGALEASE-00166300
Moghalu v. United States, 122 A.3d 923	135H+1	Double jeopardy provides a guarantee against being twice put to trial for the same offense. U.S.C.A. Const.Amend. 6.	Does Double jeopardy provide a guarantee against being twice put to trial for the same offense?	Double Jeopardy - Memo 648 - C - PC_68425.docx	ROSS-003296304-ROSS-003296305
Rosal v. First Fed. Bank of California, 671 F. Supp. 2d 1111	13+27(1)	Under California law, a claim for restitution is inconsistent and incompatible with a related claim for breach of contract or a claim in tort.	Is a claim for restitution inconsistent and incompatible with a related claim for breach of contract or a claim in tort?	Action - Memo 976 - C _1h5wS3LIYEaG2WbldIoT u7jg7Skqmm2qy.docx	ROSS-000000076-ROSS-000000077
Sayan v. State, 381 So. 2d 363	135H+95.1	After mistrial, case stands as if it had never been tried, and defendant is subject to being tried again on same charge.	"After mistrial, does a case stand as if it had never been tried, and a defendant is subject to being tried again on the same charge?"	Double Jeopardy - Memo 567 - C - SK_68346.docx	ROSS-003311775
State Fire Marshall v. Lee, 101 Mich. App. 829	141E+924	Christians must comply with fire and safety regulations which are applicable to all schools and which are applied equally to all schools. U.S.C.A.Const. Amend. 1.	Should religious schools comply with fire and safety regulations applicable to schools?	017167.docx	LEGALEASE-00166951-LEGALEASE-00166952
In re CRIIMI MAE, 251 B.R. 796	349A+10	Under New York law, it is not the characterization contained within contract, but the effect of its terms, which is relevant in distinguishing pledge of securities from absolute conveyance of securities with promise to repurchase.	"Is it not the characterization contained within a contract, but the effect of its terms, which is relevant for a pledge of securities?"	Secured Transactions - Memo 110 - C - DHA_68626.docx	ROSS-003282407-ROSS-003282408
In re Otasco, 196 B.R. 554	349A+10	Whether particular lease is intended for security is to be determined by facts of each case. 12A Okl.St.Ann. S 1-201(37)(b).	Is whether a particular lease is intended for a security to be determined by facts of each case?	042711.docx	LEGALEASE-00166729-LEGALEASE-00166730
In re Greenville Auto Mall, 278 B.R. 414	349A+10	Under Illinois' revised definition of security interest, the primary focus is on the economic realities of the transaction rather than the intent of the parties. S.H.A. 810 ILCS 5/1-201(37).	"Is the focus on ""economic realities"" of a transaction?"	042728.docx	LEGALEASE-00166747-LEGALEASE-00166748
In re Wiersma, 283 B.R. 294	349A+10	To differentiate between an absolute assignment and a security interest, Idaho courts examine substance of the relevant documents in context of the surrounding transaction. I.C. S 28-1-201.	When do courts examine substance of the relevant documents in context of the surrounding transaction?	Secured Transactions - Memo 93 - C - MS_68748.docx	ROSS-003279257-ROSS-003279258

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In re Edison Bros. Stores, 207 B.R. 801	349A+10	Under New York law as it existed at time parties entered into equipment lease, it could be inferred that option price was not nominal, and that lease was true lease rather than disguised security agreement, if lease provided that lessee could acquire leased property only by paying its fair market value at conclusion of lease term. N.Y.McKinney's Uniform Commercial Code S 1-201(37) (1993).	"When deciding whether option price is ""nominal,"" should a court compare option price?"	042886.docx	LEGALEASE-00167099- LEGALEASE-00167100
Johnston v. Nanney, 147 So. 2d 268	371+2974	Unauthorized acts of assessors and tax collectors in assessing and collecting taxes on property which previously has been adjudicated to state for unpaid taxes cannot bind state and does not constitute waiver of title by state. Act No. 47 of 1938; LSA-R.S. 47:2181, 47:2186.	Is a public property exempt from taxation?	Taxation - Memo 1292 - C - KAD_68506.docx	ROSS-003318845-ROSS- 003318846
State ex rel. Wis. Univ. Bldg. Corp. v. Bareis, 257 Wis. 497	371+2311	Exemptions from taxation are acceptable when the property has been acquired and used by and for the benefit of the state.	Are the exemptions from taxation acceptable when the property has been acquired and used by and for the benefit of the state?	046530.docx	LEGALEASE-00166512- LEGALEASE-00166513
Dobbs v. Shelby Cty. Econ. & Indus. Dev. Auth., 749 So. 2d 425	371+2016	Legislature is prohibited from delegating the power to levy taxes to a public industrial authority (PIA). Const. Art. 1, S 23; Art. 11, S 212.	Is the Legislature prohibited from delegating the power to levy taxes to a public industrial authority?	Taxation - Memo 1322 - C - SC.docx	LEGALEASE-00056656- LEGALEASE-00056657
Hillsborough Inv. Co. v. City of Tampa, 149 Fla. 7	371+2016	The sovereign power to levy a tax and the machinery for collection thereof cannot be transferred to private individuals in absence of statute, but is vested in public officials, and a taxing unit, in absence of statute, cannot assign its claim for taxes to a citizen, and thereby subrogate the citizen to the collecting rights of the taxing unit.	Can a taxing unit assign its claim for taxes to a citizen?	Taxation - Memo 1361 - C - SD_68648.docx	ROSS-003294707-ROSS- 003294708
Mitchell v. Knox Cty. Fiscal Court, 165 Ky. 543	104+190.1	Where the power to tax is delegated to the fiscal court, the grant must be strictly construed.	"Where the power to tax is delegated to the fiscal court, how is the grant construed?"	Taxation - Memo 1377 - C - SCG_68664.docx	ROSS-003293598-ROSS- 003293599
Amoco Prod. Co. v. S. Ute Indian Tribe, 526 U.S. 865	260+2	"Coal," for purposes of Coal Land Acts of 1909 and 1910, providing that United States reserved coal in lands patented under Acts, does not include coalbed methane (CBM) gas. 30 U.S.C.A. SS 81, 83-85.	"Does the reservation of ""coal"" include gas found within the coal formation, commonly referred to as coalbed methane gas (CBM gas)?"	021170.docx	LEGALEASE-00167336- LEGALEASE-00167337
Manchester v. City of Amesbury, 138 F. Supp. 3d 54	3.77E+11	Under Massachusetts law, the expression of intention to inflict a crime on another, as required to support conviction for threatening to commit a crime, may contain an explicit or implicit threat; the assessment whether the accused made a threat is not confined to a technical analysis of the precise words uttered. Mass. Gen. Laws Ann. ch. 275, S 2.	Does the expression of an intent to inflict a crime on another need to contain an explicit or implicit threat?	046874.docx	LEGALEASE-00167377- LEGALEASE-00167378
State v. Quartier, 114 Or. 657	307A+61	Under Or.L. SS 826, 827, ORS 45.020, 45.030, distinction between "affidavit" and "deposition" is that latter is taken with notice to adverse party for purpose of enabling him to attend and cross-examine.	What distinguishes affidavit from deposition?	07315.docx	LEGALEASE-00077584- LEGALEASE-00077585
Hughes v. Cornerstone Inspection Grp., 336 Ga. App. 283	21+1	Affidavits are admissible forms of evidence that may be filed in opposition to motions. West's Ga.Code Ann. SS 9-11-6(d), 9-11-56(c); Uniform Superior Court Rule 6.2.	Can affidavits be considered as an admissible form of evidence?	06068.docx	LEGALEASE-00077668- LEGALEASE-00077670
State v. Sachs, 264 S.C. 541	349+101	Search warrant does not offend the constitution so long as it is issued upon affidavit or affirmation.	Will a search warrant issued upon affidavit or affirmation offend the Constitution?	06073.docx	LEGALEASE-00077690- LEGALEASE-00077691

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Gilbride v. Trunnelle, 620 N.W.2d 244	21+1	"Professional statement" is a technique, used as a matter of convenience and practical necessity to establish a record of matters peculiarly within the knowledge of an attorney.	Do professional statements have the effect of an affidavit?	06592.docx	LEGALEASE-00077738- LEGALEASE-00077739
Dennis v. Coleman's Parking & Greasing Stations, 211 Minn. 597	50+1	A "bailment", like any other contract, may be established by express words, written or oral, or by implication from acts and general conduct.	Can a contract for bailment be an oral agreement?	06350.docx	LEGALEASE-00078385- LEGALEASE-00078386
Cassidy v. Pavlonnis, 227 Or. App. 259	315+34	A property owner's right to convey the property in exchange for money is a real property interest.	Can a property owner's right to convey the property in exchange for money be termed as a real property interest?	05384.docx	LEGALEASE-00080827- LEGALEASE-00080828
Jonkers v. Summit Twp., 278 Mich. App. 263	20+68	In cases in which the adverse claimant claims title under color of deed, disseisin occurs when the record owner first receives notice of the adverse deed.	When does Disseisin occur?	05386.docx	LEGALEASE-00080829- LEGALEASE-00080831
Bonneville Power Admin. v. F.E.R.C., 422 F.3d 908	145+1.5	Even though governmental and municipal utilities are public in normal parlance, they are not "public utilities" under the Federal Power Act (FPA). Federal Power Act, SS 1, 321 et seq., as amended, 16 U.S.C.A. SS 792, 791a et seq.	Can governmental and municipal utilities be termed as public utilities under the Federal Power Act?	11331.docx	LEGALEASE-00081477- LEGALEASE-00081478
Hetherington v. Camp Bird Min., Leasing & Power Co., 70 Colo. 531	145+11(1)	Electricity made by artificial means is a product of manufacture, and is personal property.	Is electricity made by artificial means a product of manufacture and personal property?	00770.docx	LEGALEASE-00081559- LEGALEASE-00081561
Weitz Co. v. Lexington Ins. Co., 982 F. Supp. 2d 975	366+1	Under Iowa law, equitable subrogation will never be enforced when doing so would be inequitable, or where it would work injustice to others having equal equities.	When would equitable subrogation not be enforced?	07772.docx	LEGALEASE-00081892- LEGALEASE-00081893
Weitz Co. v. Lexington Ins. Co., 982 F. Supp. 2d 975	366+1	Under Iowa law, equitable subrogation will never be enforced when doing so would be inequitable, or where it would work injustice to others having equal equities.	When would equitable subrogation not be enforced?	06497.docx	LEGALEASE-00081941- LEGALEASE-00081942
Rivas v. Napolitano, 714 F.3d 1108	221+188	Federal courts are generally without power to review the actions of consular officials.	Do federal courts have power to review the actions of consular officials?	05046.docx	LEGALEASE-00083740- LEGALEASE-00083741
Rivas v. Napolitano, 714 F.3d 1108	221+188	Federal courts are generally without power to review the actions of consular officials.	Do federal courts have power to review the actions of consular officials?	Ambassadors and Consuls - Memo 28 - SH.docx	ROSS-003284364-ROSS- 003284365
Ball v. Rao, 48 S.W.3d 332	307A+3	Repeated violations of limine orders may result in mistrials or reversals.	May repeated violations of limine orders result in mistrials or reversals?	06548.docx	LEGALEASE-00085044- LEGALEASE-00085045
May v. May, 214 W. Va. 394	134+797	There are a variety of acceptable methods of valuing the goodwill of a professional practice for purposes of equitable distribution, and no single method is to be preferred as a matter of law.	Is there a single acceptable method of valuing goodwill?	07085.docx	LEGALEASE-00089115- LEGALEASE-00089117
Traders & Gen. Ins. Co. v. Turner, 149 S.W.2d 593	413+8	The Workmen's Compensation Act is not intended to compensate employee merely for loss of earnings, but for loss of earning capacity, at a wage rate based on his capacity to earn when employed full time. Vernon's Ann.Civ.St. art. 8309, S 1, 1st subds. 1-3, 5.	What do workers compensation benefits pay or compensate for?	01715.docx	LEGALEASE-00092044- LEGALEASE-00092045
Mangiafico v. St., 767 So. 2d 1103	307A+563	It is not an abuse of discretion for a trial court to hold the parties to the terms of its order. (Per Brown, J., with three Justices concurring and two Justices concurring in the result.)	Is it not an abuse of discretion for a trial court to hold the parties to the terms of its order?	10825.docx	LEGALEASE-00094103- LEGALEASE-00094104
Butler v. Circulus, 557 S.W.2d 469	307A+563	Dismissal for failure to follow a court order presupposes an order lawfully made.	Does a dismissal for a failure to follow a court order presuppose an order lawfully made?	10851.docx	LEGALEASE-00094149- LEGALEASE-00094150

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Boothe Fin. Corp. v. Lindley, 6 Ohio St. 3d 247	92+3560	States have great discretion in laying taxes; however, taxing power is subject to equal protection clause. U.S.C.A. Const.Amend. 14; Const. Art. 1, S 2.	Do states have great discretion in laying taxes?	11415.docx	LEGALEASE-00094400-LEGALEASE-00094401
Cristino v. Bur. of Workers' Comp., 2012-Ohio-4420	307A+681	Because affirmative defenses typically rely on matters outside the complaint, they normally cannot be raised in a motion to dismiss for failure to state a claim. Rules Civ.Proc., Rule 12(B)(6).	Do affirmative defenses rely on matters outside the complaint?	10945.docx	LEGALEASE-00094677-LEGALEASE-00094678
Graves v. State Bd. of Pharmacy, 188 Kan. 194	307A+552	Trial court had no authority to enter any judgment other than dismissal of action which had become moot.	"Does the court have the authority to enter any judgment other than dismissal of an action, which had become moot?"	Pretrial Procedure - Memo # 7831 - C - KG.docx	ROSS-003327220-ROSS-003327221
Nunez v. Burgos, 215 So. 3d 931	307A+581	Abandonment is meant not as a ground to dismiss actions on mere technicalities, but to dismiss actions which in fact clearly have been abandoned. La. Code Civ. Proc. Ann. art. 561.	Is abandonment not meant to dismiss actions on mere technicalities?	10857.docx	LEGALEASE-00094793-LEGALEASE-00094794
People v. Jordan, 15 Ill. App. 3d 672	63+1(1)	A person's receipt of property is not alone enough to sustain a bribery conviction. S.H.A. ch. 38, S 33-1(d).	Is a person's receipt of property alone enough to sustain a bribery conviction?	10788.docx	LEGALEASE-00094842-LEGALEASE-00094843
Mangiafico v. St., 767 So. 2d 1103	307A+563	It is not an abuse of discretion for a trial court to hold the parties to the terms of its order. (Per Brown, J., with three Justices concurring and two Justices concurring in the result.)	Is it not an abuse of discretion for a trial court to hold the parties to the terms of its order?	10009.docx	LEGALEASE-00094858-LEGALEASE-00094859
Allied Gas & Chem. Co. v. Federated Mut. Ins. Co., 365 N.W.2d 26	307A+590.1	Effect of a continuance is merely to hold dismissal in suspension on certain conditions which, if not met, will make dismissal automatic. Rules Civ.Proc., Rule 215.1.	Is the effect of a continuance merely to hold dismissal in suspension on certain conditions?	10374.docx	LEGALEASE-00095537-LEGALEASE-00095538
State ex rel. Hood v. Louisville Tire Ctr., 204 So. 3d 1250	307A+581	The presence of the aggravating factors is not a requirement to dismissal for failure to prosecute, specifically when delay alone may suffice for a dismissal. Miss. R. Civ. P. 41(b).	Is the presence of the aggravating factors a requirement to dismissal for failure to prosecute?	10178.docx	LEGALEASE-00095616-LEGALEASE-00095617
Bean v. United States, 7 F.2d 393	34+63	Contracts of war risk insurance not to be interpreted according to principles governing other contracts of insurance.	Should contracts of war risk insurance be interpreted according to the principles governing other contracts of insurance?	09935.docx	LEGALEASE-00095622-LEGALEASE-00095623
Samuels v. King Motor Co. of Fort Lauderdale, 782 So. 2d 489	307A+563	Dismissing a complaint as a sanction under rule pertaining to involuntary dismissal of action for failure to comply with orders of the court to amend a complaint to state a cause of action is generally unnecessary, as dismissal is always available where the complaint does not state a cause of action. West's F.S.A. RCP Rule 1.420(b).	Can action be subject to involuntary dismissal for failure to comply with any rule or order of court?	09479.docx	LEGALEASE-00096112-LEGALEASE-00096113
Collins v. Bartlett Park Dist., 2013 IL App (2d) 130006	307A+683	A ruling on a motion to dismiss must interpret all pleadings and supporting documents in the light most favorable to the nonmoving party, but conclusions of law or fact unsupported by specific factual allegations are not to be taken as true. S.H.A. 735 ILCS 5/2-619.	When will all pleadings and supporting documents be interpreted most favourable to the non-moving party?	09758.docx	LEGALEASE-00096407-LEGALEASE-00096409
Adamovic v. METME Corp., 961 F.2d 652	25T+113	Federal policy favoring arbitration does not give courts license to compel arbitration absent agreement to do so.	DoesFederal policy favoring arbitration give courts license to compel arbitration?	005239.docx	LEGALEASE-00115875-LEGALEASE-00115876
Reeves v. Meridian S. Ry., 61 So. 3d 964	386+2	A trespass is committed even if the trespasser has a good-faith belief that he has a right to enter the land.	Can a trespass be committed even if the trespasser has a good-faith belief that he has a right to enter the land?	000756.docx	LEGALEASE-00117480-LEGALEASE-00117481

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
English v. Bd. of Sch. Comm'rs of Mobile Cty., 83 F. Supp. 3d 1271	78+1119	Title VII was not designed to make federal courts second-guess the business judgment of employers, and because work assignment claims strike at the very heart of an employer's business judgment and expertise, absent unusual circumstances, they typically do not constitute adverse employment actions supporting a discrimination claim. Civil Rights Act of 1964, S 703(a)(1), 42 U.S.C.A. S 2000e-2(a)(1).	Do federal courts second-guess the business judgment of employers?	000802.docx	LEGALEASE-00117779- LEGALEASE-00117780
Dade Cty. Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638	366+1	Doctrine of equitable subrogation is not created by a contract, but by the legal consequences of the acts and relationships of the parties.	Does legal or equitable subrogation arise from the legal consequences of the acts of the parties?	044425.docx	LEGALEASE-00125311- LEGALEASE-00125312
Pub. Serv. Comm'n v. Jamaica Water Supply Co., 54 A.D.2d 10	317A+111	General mandate of Public Service Commission to assure safe and adequate service by just and reasonable rates necessarily implies the power to control disbursements of funds as dividends; solvency of a public utility is clearly related to its capability to provide the public service for which it was franchised. Public Service Law SS 89-b, subd. 1, 89-c, subd. 4, 89-j.	What is the general mandate of the Public Service Law?	042322.docx	LEGALEASE-00125690- LEGALEASE-00125691
Bishop Baking Co. v. Forgey, 538 S.W.2d 602	413+51	Workmen's compensation law is to be liberally construed in order to accomplish its intended purposes, but, it is not a social welfare statute, and the sympathies of the court may not control its determination.	Is the Workers Compensation Act a social welfare statute?	048503.docx	LEGALEASE-00127495- LEGALEASE-00127496
Jindra v. Diederich Flooring, 181 Wis. 2d 579	366+41(6)	Party requesting subrogation has burden of proving that there is some basis for asserting subrogation, and that subrogation should be allowed in those circumstances. (Per Day, J., with two Justices concurring and two Justices concurring in result.)	Does the party requesting subrogation have burden of proving that there is some basis for asserting subrogation?	043492.docx	LEGALEASE-00127608- LEGALEASE-00127609
Jennings v. High Farms Corp., 35 Misc. 2d 80	13+65	In action for interference with peaceable possession, right to judgment depends on facts as they stood when action was commenced, and not as they stand at date of trial and what defendants may or may not do after service of summons will in no way tend to render ineffectual the judgment for damages.	" In an action at law, does the right to judgment depend on facts as they stood when the action was commenced?"	006111.docx	LEGALEASE-00128195- LEGALEASE-00128196
Palmer v. State, 140 So. 3d 448	211+1658	An indictment that alleges sexual battery of a child is not required to claim that the sexual penetration occurred without the victim's consent. West's A.M.C. S 97-3-95(1)(c).	Does penetration without consent constitute sexual battery?	043040.docx	LEGALEASE-00128240- LEGALEASE-00128241
Buckner v. Greenwood, 6 Ark. 200	83E+417	A bill or note payable to bearer passes by delivery, so as to vest the legal interest in the holder, and authorize him to sue upon it in his own name.	Is the legal interest in a promissory note transferable?	009373.docx	LEGALEASE-00129026- LEGALEASE-00129027
In re Hanley's Estate, 23 Cal. 2d 120	30+21	Jurisdiction cannot be conferred upon appellate courts by consent or stipulation of parties, estoppel or waiver. Code Civ.Proc. S 939; Probate Code, S 1233.	"Can Appellate jurisdiction be conferred by agreement, waiver, or estoppel?"	Appeal and error - Memo 69 - RK.docx	ROSS-003285643-ROSS- 003285645
Heisler v. Hines Motor Co., 282 Mont. 270	307A+743	Pretrial order serves to prevent surprise, simplify the issues, and permit counsel to prepare their case for trial.	Does a pretrial order prevent surprise?	026402.docx	LEGALEASE-00130124- LEGALEASE-00130126
Case Poythress v. J. P. Stevens & Co., 54 N.C. App. 376	413+1	Workers' Compensation Act has never been construed to guarantee recovery; it merely affords right to claim for recovery.	Does the Workers' Compensation Act guarantee recovery?	047784.docx	LEGALEASE-00132746- LEGALEASE-00132747

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Bd. of Ed. of Union Free Sch. Dist. No. 3 of Town of Oyster Bay, Nassau Cty. v. Allen, 6 A.D.2d 316	371+2001	Taxation is to support the public welfare, as that may from time to time and from place to place be conceived.	"Is the theory of taxation, as that may from time to time and from place to place be conceived, to support public welfare?"	Taxation - Memo # 390 - C - KBM.docx	ROSS-003290955-ROSS-003290956
Bradford Motor Cars v. Frem, 511 So. 2d 1120	307A+483	Plaintiff cannot liquidate damages merely by serving a request for admissions which is not answered.	Can a plaintiff liquidate damages merely by serving a request for admissions which is not answered?	029892.docx	LEGALEASE-00135536-LEGALEASE-00135537
Reese v. Mayer, 198 Neb. 499	48A+171(4.1)	When two vehicles approach intersection at approximately the same time, vehicle on right has right to proceed in lawful manner in preference to vehicle on left; vehicle on right has right to immediate use of intersection, and it is this use of roadway that vehicle on left is required to yield to vehicle on right; right-of-way which vehicle on left is required to yield to vehicle on right is qualified, and driver on right must exercise due care, may not proceed in disregard of surrounding circumstances, and where necessary to avoid collision may be required to yield right-of-way.	Does the driver of motor vehicle approaching from the right have a right of way?	Highways -Memo 91 - GP.docx	ROSS-003291615-ROSS-003291616
Gidden Motor Co. v. Johnston, 155 Miss. 328	83E+418	Nonnegotiable instruments which partake of nature of commercial paper are assignable by indorsement and delivery.	Arenon-negotiable instruments which partake the nature of commercial paper assignable by endorsement and delivery?	009508.docx	LEGALEASE-00140598-LEGALEASE-00140599
Scullin v. Cameron, 518 So. 2d 695	30+3239	Continuances are not favored, and trial court's denial of motion for continuance will be upset on appeal only when a palpable or gross abuse of discretion has been shown.	"Can a trial court deny plaintiff's motion for continuance of trial, as plaintiff had been notified of trial date before?"	032140.docx	LEGALEASE-00142714-LEGALEASE-00142715
Madera Production Co. v. Atlantic Richfield Co., 107 S.W.3d 652	401+5.1	Suit seeking net profits interest based on ownership of land is considered action on real property interest, meaning the suit must be filed where the property is located. V.T.C.A., Civil Practice & Remedies Code S 15.011.	Is a suit seeking net profits interest based on ownership of land an interest in land?	Venue - Memo 93 - JS.docx	ROSS-003318493-ROSS-003318494
Cokeley v. State, 87 Tex. Crim. 256	352H+186	Under indictment charging rape on woman mentally unsound, it was requisite for state to show: First, the act; and, second, mental unsoundness of the woman.	Does the state have to show that prosecutrix was mentally unsound at the time of intercourse?	043105.docx	LEGALEASE-00143456-LEGALEASE-00143457
Taylor v. Taylor, 20 Ill. 650	307A+746	Sanctions imposed for violations of a pretrial order must be just and appropriate. Vernon's Ann.Texas Rules Civ.Proc., Rule 166.	Must sanctions imposed for violations of a pretrial order be just and appropriate?	033873.docx	LEGALEASE-00143645-LEGALEASE-00143646
Meier v. Senecaut, 641 N.W.2d 532	313+63	Motorist failed to present substantial evidence of good cause for failing to serve petition on driver within 90 days of filing petition or to take affirmative action to obtain extension or directions from court when service could not be accomplished; although there was confusion as to whether driver or his grandfather was proper defendant, motorist failed to justify her inability to accomplish service of process after confusion was clarified and she obtained correct address for driver, and it was not enough to merely attempt service at driver's residence during times when working residents would have been expected to be at work. Rules Civ.Proc., Rule 49 (2001).	"When there is no service within ninety days after filing of the petition and no order extending the time for service, is the delay presumptively abusive?"	034424.docx	LEGALEASE-00143647-LEGALEASE-00143648

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Hanson v. Disotell, 106 So. 3d 345	307A+587	Alternative sanction less than dismissal with prejudice of property owner's suit against neighbor and others for owner's failure to prosecute action for conspiracy to interfere with owner's lease agreement did not serve best interests of justice; after Supreme Court issued mandate on interlocutory review in which it remanded with directions to set case for trial, property owner took no action for over four years until he filed motion to set trial, case had been on docket for 11 years, and although death of one witness might not have been sufficient to show prejudice, since his deposition had been preserved for record, defendants suffered prejudice from delay, specifically with potential alteration of physical evidence and witness' memories. Rules Civ.Proc., Rule 41(b).	Is dismissal for failure to comply with an order of the trial court appropriate only where there is a clear record of delay or contumacious conduct?	034320.docx	LEGALEASE-00144281- LEGALEASE-00144282
Brown v. Kidney & Hypertension Assocs., L.L.P., 5 So. 3d 258	307A+590.1	Any formal discovery is a "step" in the prosecution that can preclude dismissal for abandonment, whether or not filed in the record, provided it has been served on all parties. LSA-C.C.P. art. 561.	Is any formal discovery in a case considered a step in the prosecution?	036094.docx	LEGALEASE-00148111- LEGALEASE-00148112
Marin Cty. v. Superior Court of Marin Cty., 53 Cal. 2d 633	200+80	All roads committed to care of a county belong, ultimately, to all people of state.	Do all roads committed to care of a county belong ultimately to all people of the state?	Highways -Memo 254-DB_57969.docx	ROSS-003294906
Bright v. Frank Russell Investments, 191 Wash. App. 73	302+20	Litigants in good faith may raise alternative legal grounds for a desired outcome.	Can litigants in good faith raise alternative legal grounds for a design?	023620.docx	LEGALEASE-00149027- LEGALEASE-00149028
Pac. Gas & Elec. Co. v. United States, 3 Cl. Ct. 329	393+622	Acceptance or receipt of benefits is not sufficient to create a contract that binds United States in absence of affirmative authorization.	Can the Forest Service personnel contractually bind United States without proper legal authority?	047561.docx	LEGALEASE-00151244- LEGALEASE-00151245
Vetri v. Johnston, 112 N.Y.S.2d 822	83E+469	Maker of notes was not "necessary party" to action by assignee of accommodation indorser against payee for whom notes were endorsed, for damages sustained when accommodation indorser was compelled to pay notes to purchaser of value after maker and payee failed to meet their obligations. Civil Practice Act, SS 193, 194.	Is the maker of a note a necessary party ?	010704.docx	LEGALEASE-00152598- LEGALEASE-00152599
City of Madera v. Black, 181 Cal. 306	371+2001	The word "impost," in its broader sense, means any tax or tribute imposed by authority, and applies as well to a tax on persons as a tax on property.	What does the word impost mean for the purpose of tax?	Taxation - Memo # 917 - C - JL_60621.docx	ROSS-003296562-ROSS-003296563
Thornton v. Crowther, 24 Mo. 164	83E+481	An assignment of a promissory note, written on a separate paper, although not transferring the legal ownership, transfers the beneficial ownership in the note, so as to enable the assignee to sue on it in his own name.	Is an assignee of a note entitled to sue in his own name?	Bills and Notes - Memo 950 - RK_60809.docx	ROSS-003295387
Perkins v. Texas Nat. Bank of Commerce of Houston, 448 S.W.2d 725	21+9	Fact that affidavit contains both admissible and inadmissible matters does not render it entirely void.	Will affidavit be rendered void if it contains both admissible and inadmissible matters?	Affidavits - Memo 73 - _16M8mb00NLo3VkNyEKUPcNSVoN0zC4I88.docx	ROSS-000000241-ROSS-000000242

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Nazworth v. Swire Florida, 486 So. 2d 637	308+1	It is the right of control, and not the actual control an employer or owner has over an agent, which determines the agency relationship between the parties.	Is it the actual control by the employer over the agent that determine the relationship between the parties?	041914.docx	LEGALEASE-00157470-LEGALEASE-00157471
Keough v. Cyrus USA, 204 S.W.3d 1	307A+699	The movant for reinstatement bears the burden to produce evidence supporting the motion.	Does the movant for reinstatement bear the burden to produce evidence supporting the motion?	039596.docx	LEGALEASE-00159547-LEGALEASE-00159548
Flacke v. Town of Fine, 113 Misc. 2d 56	411+8	Use and preservation of forest preserve is subject to reasonable regulations of Legislature within strictly restricted constitutional bounds. Const.Art. 14, S 1.	Are Forest Preserve District (FPD) creations of the legislature and should the statutes granting power to them be strictly construed?	047610.docx	LEGALEASE-00159640-LEGALEASE-00159641
Indiana Nat. Bank of Indianapolis v. Goss, 208 F.2d 619	8.30E+10	Under Illinois law, law of place of payment of note is the law which will govern the nature, validity, interpretation, and effect of the obligation.	Which law governs the nature and validity of note?	009277.docx	LEGALEASE-00160368-LEGALEASE-00160369
United States v. Gonzalez, 76 F.3d 1339	135H+25	Defendant must be party to civil forfeiture proceeding for double jeopardy to attach. U.S.C.A. Const.Amend. 5.	Should a defendant be a party to civil forfeiture proceeding for double jeopardy to attach?	015750.docx	LEGALEASE-00160721-LEGALEASE-00160722
Shindler v. Marr & Associates, 695 S.W.2d 699	289+1110	Strict compliance with applicable statutes is not required for formation of a limited partnership. Vernon's Ann.Texas Civ.St. art. 6132a, S 3(b).	QuestionIs strict compliance with the applicable statutes required for the formation of a limited partnership?	022665.docx	LEGALEASE-00161309-LEGALEASE-00161310
Purvis v. Busey, 260 Ala. 373	200+80	The public only acquires an easement in highways, the fee of the land remains in the owner subject to the easement.	Does the fee remain with the owner when the public acquires an easement in the highway?	Highways - Memo 399 - RK_66328.docx	ROSS-003281303-ROSS-003281304
Thorp, Smith & Hanchett v. Craig, 10 Iowa 461	83E+675	The law of the place where a bill of exchange is payable governs as to the allowance of days of grace.	Which law governs the allowance of days of grace upon a bill of exchange?	009235.docx	LEGALEASE-00162783-LEGALEASE-00162784
Dobbs v. Shelby Cty. Econ. & Indus. Dev. Auth., 749 So. 2d 425	371+2016	Legislature is prohibited from delegating the power to levy taxes to a public industrial authority (PIA). Const. Art. 1, S 23; Art. 11, S 212.	Is the Legislature prohibited from delegating the power to levy taxes to a public industrial authority?	Taxation - Memo 1322 - C - SC_68516.docx	ROSS-003280866-ROSS-003280867
Educ. Films Corp. of Am. v. Ward, 282 U.S. 379	371+2001	Nature of tax as regards question of validity must be determined by its operation, rather than by particular descriptive language applied to it.	Should the nature of a tax be determined by its operation or descriptive language?	Taxation - Memo # 851 - C - JL_58479.docx	ROSS-003279913-ROSS-003279914
Cayuga Nation v. Tanner, 824 F.3d 321	209+117	The Bureau of Indian Affairs (BIA) has the authority to make recognition decisions regarding tribal leadership, but only when the situation has deteriorated to the point that recognition of some government was essential for Federal purposes; thus, the BIA has both the authority and responsibility to interpret tribal law when necessary to carry out the government-to-government relationship with the tribe.	What is the relevance of the Bureau of Indian Affairs?	Indians - Memo 15 - JS_62215.docx	ROSS-003280775-ROSS-003280776
McCleery v. Thompson, 130 Pa. 443	289+671	A judgment confessed by one partner in the firm name for a firm debt, though void against the others, is good against the partner confessing it; under it partnership goods may be taken in execution; otherwise if the judgment be confessed by a retiring partner after dissolution.	Will a judgment confessed by one partner in the firm name be void against the non-assenting partners?	Partnership - Memo 468 - JK_58153.docx	ROSS-003282007-ROSS-003282008
United States v. Ahrensfield, 698 F.3d 1310	135H+1	Double Jeopardy Clause embodies two vitally important interests, i.e., the principle that state is not permitted to make repeated attempts to convict individual for same offense and interest in preserving finality of judgments. U.S.C.A. Const.Amend. 5.	What is the two vitally important interests double jeopardy clause embodies?	Double Jeopardy - Memo 713 - C - RF_68035.docx	ROSS-003282432-ROSS-003282433

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Com. v. Stafford, 451 Pa. 95	203+507	One charged with homicide cannot escape liability merely because the blow he inflicts is not mortal, or the immediate cause of death; if his blow is the legal cause in that it started a chain of causation which lead to the death, he is guilty of homicide.	Is criminal responsibility confined to a sole or immediate cause of death?	Homicide - Memo 45 - TH.docx	ROSS-003282704-ROSS-003282705
McDowell v. Citicorp Inc., 752 N.W.2d 209	307A+695	If the dismissal of a complaint also constitutes dismissal of an action, then a motion to amend is improper. SDCL S 15-6-15(a).	"If the dismissal of a complaint also constitutes dismissal of an action, is a motion to amend improper? "	Pretrial Procedure - Memo 11575 - C - BP_65595.docx	ROSS-003283036-ROSS-003283037
In re Trask, 462 B.R. 268	366+1	Under Maine law, the doctrine of equitable subrogation requires that the equities of the parties be weighed and balanced.	Does the doctrine of equitable subrogation require that the equities of the parties be weighed and balanced?	Subrogation - Memo 177 - ANG C.docx	ROSS-003283189-ROSS-003283190
Mariners Sav. & Loan Assn. v. Neil, 22 Cal. App. 3d 232	253+562	Husband's separate property is not liable for wife's debts contracted either before or after marriage. West's Ann.Civ.Code, S 5103.	Is the separate property of a husband or wife liable for the debts of their spouse?	Marriage and Cohabitation - Memo 15 - RK.docx	ROSS-003284332-ROSS-003284333
Oncor Elec. Delivery Co. v. Murillo, 449 S.W.3d 583	272+1000	A finding of liability on a negligent-activity theory requires that the person have been injured by or as a contemporaneous result of the activity itself rather than by a condition created by the activity.	When does the negligent activity theory of liability be applicable in an action?	Negligence- Memo 9 - VP.docx	ROSS-003284341-ROSS-003284342
Fed. Armored Serv. v. Pub. Serv. Comm'n, 204 Mich. App. 24	317A+169.1	Decision of Public Service Commission (PSC) is unlawful when it involves erroneous interpretation or application of the law and unreasonable when it is unsupported by evidence. M.C.L.A. S 462.26(8).	"When is a decision of the Public Service Commission (""PSC"")?"	Public Utilities - Memo 156 - AM.docx	ROSS-003285295-ROSS-003285296
Barnes v. Nw. Repossession, 210 F. Supp. 3d 954	386+6	Under Illinois law, an injury to or interference with possession, with or without physical force, constitutes a trespass to personal property.	What constitutes a trespass to personal property?	Trespass - Memo 111 - JS.docx	ROSS-003286301-ROSS-003286302
Eisen v. Venulum Ltd., 244 F. Supp. 3d 324	25T+414	District Court, rather than arbitrator, would determine enforceability of arbitration clauses in investment contracts involving interests in fine wines, even though contracts included requirement that all disputes under contracts be sent to arbitration, since there was no language in contracts expressly stating that arbitrability disputes would be resolved by arbitration, contracts stated that International Chamber of Commerce (ICC) rules would control any arbitration, ICC rule provided that arbitrator determined validity of arbitration agreement if party against which claim had been made challenged its validity, but investor, who was bringing claims against foreign corporation for violations of securities laws, was challenging validity of arbitration clauses.	Does reference to International Chamber of Commerce rules in an arbitration clause present a clear and unmistakable agreement to arbitrate arbitrability ?	Alternative Dispute Resolution - Memo 528 - RK.docx	ROSS-003286520-ROSS-003286521
Ball v. Rao, 48 S.W.3d 332	307A+3	Repeated violations of limine orders may result in mistrials or reversals.	May repeated violations of a court's in limine orders result in mistrials or reversals?	Pretrial Procedure - Memo # 895 - C - VA.docx	ROSS-003286862-ROSS-003286863
Forman v. Fina Oil & Chem. Co., 858 S.W.2d 498	307A+717.1	Mere compliance with rule governing motion for continuance on ground of want of testimony does not guarantee that continuance will be granted. Vernon's Ann.Texas Rules Civ.Proc., Rule 252.	Does a mere compliance with the rule governing motion for continuance on the ground of want of testimony guarantee that a continuance will be granted?	Pretrial Procedure - Memo # 2079 - C - NS.docx	ROSS-003287363-ROSS-003287364
In re Agent Orange Prod. Liab. Litig., 373 F. Supp. 2d 7	221+111	A corporation is not immune from civil legal action based on international law.	Is a corporation immune from civil legal action based on international law?	International Law - Memo # 253 - C - ANC.docx	ROSS-003287648-ROSS-003287649

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Matsyuk v. State Farm Fire & Cas. Co., 155 Wash. App. 324	366+1	The purpose of subrogation is to put the financial consequences on the party responsible for the loss.	Is the purpose of subrogation to put the financial consequences on the party responsible for the loss?	Subrogation - Memo 251 - VG C.docx	ROSS-003288233-ROSS-003288234
City of Costa Mesa v. McKenzie, 30 Cal. App. 3d 763	413+391	Workmen's compensation is compulsory and may not be subsidized by any contributions or exactions from employees.	Is workmen's compensation compulsory and may it be subsidized by any contribution or exactions from employees?	Workers Compensation - Memo #160 ANC.docx	ROSS-003288584-ROSS-003288585
Employers Ins. of Wausau v. Com., Dep't of Transp., 581 Pa. 381	366+1	A subrogation claim, in substance, is equitable in nature, and therefore does not sound in assumpsit.	"Is a subrogation claim, in substance, equitable in nature, and therefore does not sound in assumpsit?"	Subrogation - Memo 551 - C - SA.docx	ROSS-003289129-ROSS-003289130
King v. Long Beach Mortg. Co., 672 F. Supp. 2d 238	172H+1556	Delivery of a single copy of the notice does not trigger extension of rescission right to three years under Truth in Lending Act (TILA). 12 C.F.R. S 226.23(a)(3), (b)(1).	Does the delivery of a single copy of the notice trigger an extension of the right to rescission?	Consumer Credit - Memo 202 - RK_61864.docx	ROSS-003293655-ROSS-003293656
DRFP L.L.C. v. Republica Bolivariana de Venezuela, No. 16-3960, 2017 WL 3635530	8.30E+12	The Ohio Uniform Commercial Code (UCC) governs the creation, transfer, and enforceability of negotiable instruments.	"What governs the creation, transfer and enforceability of negotiable instruments? "	Bills and Notes - Memo 78 - KC_65103.docx	ROSS-003294346
U.S. Fid. & Guar. Co. v. State ex rel. Oklahoma Tax Comm'n, 2002 OK 42, 14, 54 P.3d 1010	371+3602	A "sales tax" is a statutorily imposed burden on the sale of goods and based on their value.	"Is a ""sales tax"" a statutorily imposed burden on the sale of goods and based on their value? "	Taxation - Memo 1107 - C - SN_65678.docx	ROSS-003295275-ROSS-003295276
S. Farm Bureau Cas. Ins. Co. v. Tallant, 362 Ark. 17	366+1	"Subrogation" is the substitution of one party for another; the party asserting subrogation is making a demand under the right of another.	Is the party asserting subrogation making a demand under the right of another?	Subrogation - Memo 285 - RM C.docx	ROSS-003295392-ROSS-003295395
Williams v. State Farm Mut. Auto. Ins. Co., 202 Mich. App. 491	181+4	In case of forgery, culpable mental state requires proof of knowledge that instrument is forged.	"In the case of forgery, what does culpable mental state require? "	Forgery - Memo 58 - SNJ_65942.docx	ROSS-003296221-ROSS-003296222
In re Wyly, 552 B.R. 338	308+8	Under Texas law, an agency relationship need not be expressly established, and instead may be implied based on the conduct of the parties under the circumstances.	How is the agency relationship created?	Principal and Agent - Memo 8 - RK.docx	ROSS-003296249-ROSS-003296250
Williams v. Bank of Tallassee, 456 So. 2d 50	307A+695	When motions to dismiss are granted, plaintiff should always be afforded leave to amend.	"When motions to dismiss are granted, should a plaintiff always be afforded leave to amend? "	Pretrial Procedure - Memo 11670 - C - SHS_65407.docx	ROSS-003296606
Blankenship v. Estate of Bain, 5 S.W.3d 647	366+1	A right of subrogation may arise by contract (conventional subrogation), by application of equitable principles of law (legal subrogation), or by application of a statute (statutory subrogation).	What can the right of subrogation arise from?	Subrogation - Memo 165 - ANG C.docx	ROSS-003296779-ROSS-003296780
Von Holden v. Chapman, 87 A.D.2d 66	368+1	Preservation of life has high social value in our culture and suicide is deemed "a grave public wrong."	Is suicide deemed as a grave public wrong?	Suicide - Memo 1 - AKA.docx	ROSS-003298142-ROSS-003298143
Sec. Pac. Hous. Servs. v. Friddle, 315 Ark. 178	307A+517.1	Dismissal with prejudice is as conclusive of rights of parties as if there were adverse judgment after trial.	Is dismissal with prejudice as conclusive of rights of parties as if there were an adverse judgment after the trial?	Pretrial Procedure - Memo # 2594 - C - NC.docx	ROSS-003300141-ROSS-003300142
Pinnacle Properties V v. Mainline Supply of Atlanta, 319 Ga. App. 94	315+605	Every legal interest in real and personal property can be seized and sold.	Can every legal interest in real and personal property be seized and sold?	Property - Memo 35 - RM.docx	ROSS-003300718-ROSS-003300719

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Stearns Bank N.A. v. Palmer, 182 S.W.3d 624	307A+517.1	The trial court loses jurisdiction on the date a voluntary dismissal is filed. V.A.M.R. 67.02(a).	Does the trial court lose jurisdiction on the date a voluntary dismissal is filed?	Pretrial Procedure - Memo # 2586 - C - NC.docx	ROSS-003301577-ROSS-003301578
In re Cent. Illinois Energy Coop., 561 B.R. 699	268+742(4)	Under Illinois law, a statutory immunity from suit or liability is an affirmative defense that must be pleaded and proved by the party seeking its protection.	What is a statutory immunity from suit or liability?	Agriculture - Memo 22 - SB.docx	ROSS-003303470-ROSS-003303471
Pelas v. Wooley, 297 So. 2d 546	307A+725	Every contested motion for continuance is to be tried contradictorily with opposing party. LSA-C.C.P. arts. 1601, 1602.	Is every contested motion for continuance to be tried contradictorily with opposing party?	Pretrial Procedure - Memo # 4571 - C - DA.docx	ROSS-003304217-ROSS-003304218
Wilson v. Cty. of Orange, 881 So. 2d 625	307A+561.1	Dismissal should not be granted on the basis of an affirmative defense, except when the face of the complaint is sufficient to demonstrate the existence of that defense.	Should a dismissal be granted on the basis of an affirmative defense?	Pretrial Procedure - Memo # 8611 - C - DA_59683.docx	ROSS-003308481-ROSS-003308482
Perkins v. Texas Nat. Bank of Commerce of Houston, 448 S.W.2d 725	21+9	Fact that affidavit contains both admissible and inadmissible matters does not render it entirely void.	Will affidavit be rendered void if it contains both admissible and inadmissible matters?	Affidavits - Memo 73 - SNJ_62001.docx	ROSS-003308817-ROSS-003308818
Laurie v. Ezard, 595 S.W.2d 336	307A+581	Dismissal for failure to prosecute should not be based on remote, even if extended, periods of inactivity.	Should dismissal for failure to prosecute be based on remote periods of inactivity?	Pretrial Procedure - Memo # 9691 - C - SK_61592.docx	ROSS-003310242-ROSS-003310244
E. Nat. Bank v. Glendale Fed. Sav. & Loan Ass'n, 508 So. 2d 1323	366+1	Equitable subrogation is governed by operation of equitable principles rather than legal rules and will not be applied where it would work injustice to innocent third parties.	Is the doctrine of equitable subrogation a doctrine based on equity?	Subrogation - Memo 195 - RM.docx	ROSS-003310936-ROSS-003310937
Pust v. Means, 2009 PA Super 192	366+1	The goal of subrogation is to place the burden of the debt upon the person who should bear it.	Should the goal of subrogation be to place the burden on the debt upon the person who should bear it?	Subrogation - Memo 394 - VP C.docx	ROSS-003311114-ROSS-003311115
First Am. Title Ins. Co. v. Cumberland Cty. Bank, 633 F. Supp. 2d 566	366+38	Under Tennessee law, equitable subrogation will not be enforced when it would work injustice to rights of those having equities.	Will equitable subrogation be enforced when it would work injustice to rights of those having equities?	Subrogation - Memo 172 - ANG C.docx	ROSS-003311488-ROSS-003311489
Zurich Am. Ins. Co. v. S.-Owners Ins. Co., 248 F. Supp. 3d 1268	366+27	Under Florida law, conventional subrogation arises or flows from a contract between the parties establishing an agreement that the party paying the debt will have the rights and remedies of the original creditor.	How does subrogation generally arise?	Subrogation - Memo 73 - VP C.docx	ROSS-003311664-ROSS-003311666
In re Lopez, 486 B.R. 221	172H+117	So long as a borrower receives one notice of right to cancel, the rescission period may not be extended under either the Truth in Lending Act (TILA) or the Massachusetts Consumer Credit Cost Disclosure Act (MCCCDCA). Consumer Credit Protection Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.; M.G.L.A. c. 140D, S 10 et seq.	Can the rescission period be extended if the borrower receives notice?	Consumer Credit - Memo 14 - RK.docx	ROSS-003312430-ROSS-003312431
Senseley v. First Nat. Life Ins. Co., 205 La. 61	307A+501	Plaintiff has control of a suit and the right to discontinue or dismiss it at any time except where rights of defendant are prejudiced, and as respects a reconventional demand the defendant has similar control and rights. Code Prac. art. 491.	Can a plaintiff discontinue an action against a defendant where the rights of the latter will not be prejudiced thereby?	Pretrial Procedure - Memo # 1659 - C - KG.docx	ROSS-003314594-ROSS-003314595
Bullock v. Marathon Oil Co., 798 S.W.2d 353	371+2005	Inherent in state's power to tax is state's freedom to select subjects of taxation.	Is the states freedom to select subjects of taxation inherent in the states power to tax?	Taxation - Memo # 635 - C - NC.docx	ROSS-003317074-ROSS-003317075

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Dickenson Manor v. Slagle, 732 S.W.2d 263	401+5.3(1)	Phrase "whereby the title thereto may be affected" in statute providing "Suits for the possession of real estate, or whereby the title thereto may be affected, or for the enforcement of the lien of any special tax bill thereon, shall be brought in the county where such real estate, or some part thereof, is situated," means that judgment must operate directly upon the real estate title. V.A.M.S. S 508.030.	How is the term 'whereby the title may be affected' interpreted by the courts?	Venue - Memo 116 - RK.docx	ROSS-003317650-ROSS-003317651
Pennsylvania Nat. Mut. Cas. Ins. Co. v. Ins. Com'r of Com. of Pa., 121 Pa. Cmwlt. 618	308+159(1)	Principal is liable for acts of its agent committed in scope of its employment even though principal did not authorize acts.	Can a principal be held liable for an unauthorized act of an agent performed within the scope of his employment?	Principal and Agent - Memo 117 - KC.docx	ROSS-003317894-ROSS-003317895
Lumley v. Bd. of Regents for Univ. of Michigan, 215 Mich. App. 125	13+61	Cause of action accrues when all elements of claim have occurred and can be alleged in proper complaint.	Does a cause of action accrue when all elements of claim have occurred and can be alleged in proper complaint?	Action - Memo # 214 - C - NO.docx	ROSS-003322785-ROSS-003322786
Zurich Am. Ins. Co. v. S.-Owners Ins. Co., 248 F. Supp. 3d 1268	366+27	Under Florida law, conventional subrogation arises or flows from a contract between the parties establishing an agreement that the party paying the debt will have the rights and remedies of the original creditor.	Does subrogation generally arise contractually?	Subrogation - Memo 1005 - C - CAT.docx	ROSS-003323807-ROSS-003323808
Home Ins. Co. v. Cincinnati Ins. Co., 213 Ill. 2d 307	208+20	"Indemnification" differs from "subrogation" in that the entity seeking indemnification does so in its own right, while in the latter the subrogee succeeds to another's right to payment.	Does a party seeking subrogation does so as a successor to another party's right to payment?	Subrogation - Memo 199 - RM C.docx	ROSS-003324593-ROSS-003324594
Wasko v. Manella, 269 Conn. 527	366+1	Equitable subrogation arises strictly as a matter of equity, regardless of whether there is an explicit agreement; it is designed to promote and to accomplish justice and is the mode which equity adopts to compel the ultimate payment of a debt by one who, in justice, equity, and good conscience, should pay it.	Is equitable subrogation a remedy that arises strictly as a matter of equity?	Subrogation - Memo 398 - RM C.docx	ROSS-003324937-ROSS-003324938
In re Bill Heard Enterprises, 423 B.R. 771	366+1	Equity rules are not absolute and competing equities must be considered in any subrogation-restitution situation; the subrogee must have clear equity, and subrogation is defeated by countervailing equities.	Are equity rules absolute?	Subrogation - Memo 310 - RM C.docx	ROSS-003324995-ROSS-003324997
Zissu v. IH2 Prop. Illinois, 157 F. Supp. 3d 797	386+6	Trespass to personal property under Illinois law involves an injury to or interferences with possession of chattel, with or without physical force.	Does a trespass to personal property require physical force?	Trespass - Memo 121 - RK.docx	ROSS-003325125-ROSS-003325126
AJJ Enterprises, LLP v. Jean-Charles, 160 Conn. App. 375	366+1	"Subrogation" is a doctrine which equity borrowed from the civil law and administers so as to secure justice without regard to form or mere technicality.	How is subrogation administered?	Subrogation - Memo 65 - RM C.docx	ROSS-003325129-ROSS-003325130
In re Shavers, 418 B.R. 589	366+1	Under Mississippi law, the object of equitable subrogation is the doing of complete, essential, and perfect justice between all parties.	"Is the object of equitable subrogation the doing of complete, essential and perfect justice between all parties?"	Subrogation - Memo 312 - RM C.docx	ROSS-003325143-ROSS-003325145
Farrell by Lehner v. John Deere Co., 151 Wis. 2d 45	386+6	Individual using personal property without owner's permission is trespasser as to owner of property.	Is an individual who uses personal property without the owner's permission a trespasser?	Trespass - Memo 202 - RK.docx	ROSS-003325920-ROSS-003325921

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Jindra v. Diederich Flooring, 181 Wis. 2d 579	366+41(6)	Party requesting subrogation has burden of proving that there is some basis for asserting subrogation, and that subrogation should be allowed in those circumstances. (Per Day, J., with two Justices concurring and two Justices concurring in result.)	Does a party requesting subrogation have burden of proving that there is a basis for asserting subrogation?	Subrogation - Memo # 1253 - C - KA.docx	ROSS-003327262-ROSS-003327263
United States v. Heyman, 794 F.2d 788	111H+8	Account executive for financial institution who caused financial institution to violate law regarding reporting of large monetary transactions could be convicted of willfully causing deposits to be structured so as to violate reporting law, which if directly performed by financial institution would be federal offense, although he himself had no legal responsibility to file currency transaction reports. 18 U.S.C.A. S 2(b); 31 U.S.C.A. SS 5311, 5313, 5322.	When does a financial institution file a currency transaction report?	Banks and Banking - Memo 3 - MS.docx	ROSS-003311389-ROSS-003311391
Employers Ins. of Wausau v. Com., Dep't of Transp., 581 Pa. 381	38+90	An "assignment" is a transfer of property or some other right from one person to another, and unless in some way qualified, it extinguishes the assignor's right to performance by the obligor and transfers that right to the assignee.	What is an assignment?	000092.docx	LEGALEASE-00115518- LEGALEASE-00115519
Gulfstream III Assocs. v. Gulfstream Aerospace Corp., 995 F.2d 425	38+2	Validity of assignment of antitrust claim is a matter of federal common law.	Is the assignment of antitrust claim a matter of federal common law?	000096.docx	LEGALEASE-00115548- LEGALEASE-00115549
Amalgamated Transit Union, Local 1756, AFL- CIO v. Superior Court, 46 Cal. 4th 993	38+31	The legal concept of "assignment" refers to the transferability of all types of property, including a cause of action.	Does transfer of assignment refer to all types of property?	Assignments - Memo 6 - MS.docx	LEGALEASE-00000118- LEGALEASE-00000119
Beauchamp v. N. Am. Sav. Ass'n, 543 S.W.2d 536	195+1	Transaction of "guaranty" is species of contract with at least three parties, a promisor, creditor to whom promise is made and a debtor, that arises when promisor makes promise to creditor either as to solvency of debtor or as to payment of debt.	How many parties are involved in a contract of guaranty?	Guaranty - Memo 7 - RM.docx	ROSS-003296997-ROSS-003296999
DeCespedes v. Prudence Mut. Cas. Co. of Chicago, Ill., 193 So. 2d 224	217+1867	The contract of insurance is said to be a contract of utmost good faith, and the law of insurance may be thought of as an extension of the law of suretyship.	Are insurance contracts considered as contract of good faith?	000188.docx	LEGALEASE-00115668- LEGALEASE-00115670
Potter Huffman Land & Live Stock Co. v. Witcher, 48 Cal. App. 93	322H+1166	Where defendant was given sufficient information to place him on inquiry as to plaintiff's rights long before transfer of water rights to him, he was not an innocent purchaser without notice, in view of Civ.Code, S 19, since he had readily accessible means of acquiring knowledge which is equivalent to notice or knowledge of such rights.	Is readily accessible means of knowledge the equivalent to notice?	Notice - Memo 13 - VP.doc	LEGALEASE-00000266- LEGALEASE-00000267
Caldwell v. Corbin, 152 Ga. App. 153	392T+6(1)	Administrative Procedure Act and statute governing review of findings of Board of Review of Employment Security Agency are in derogation of common law and must be strictly construed. Code, SS 3A-101 et seq., 54-619.	Is Administrative Procedure Act construed strictly?	Administrative Law - Memo 4 - RM.docx	ROSS-003298367-ROSS-003298369
Amalgamated Transit Union, Local 1756, AFL- CIO v. Superior Court, 46 Cal. 4th 993	38+31	The legal concept of "assignment" refers to the transferability of all types of property, including a cause of action.	Does transfer of assignment refer to all types of property?	000098.docx	LEGALEASE-00115555- LEGALEASE-00115556

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Jackson Cty. Bd. of Election Comm'rs v. Paluka, 13 S.W.3d 684	277+3	"Implied notice" is knowledge implied from surrounding facts and circumstances, so as to hold one to have known that which he could have discovered by the exercise of ordinary care.	What are the kinds of notices recognized by law?	000260.docx	LEGALEASE-00115681-LEGALEASE-00115682
Eljer Mfg. v. Kowin Dev. Corp., 14 F.3d 1250	25T+374(1)	Arbitration does not provide system of "junior varsity trial courts" offering losing party complete and rigorous de novo review.	What are the benefits of arbitration?	Alternative Dispute Resolution - Memo 17 - JS.docx	LEGALEASE-00000690-LEGALEASE-00000691
Mitchell v. State, 132 Neb. 891	181+10	It is "forgery" fraudulently to alter any part of instrument when alteration is capable of working injury to another, and hence it is "forgery" fraudulently to erase one signature and insert another (Comp.St.1929, SS 28-601, 62-807).	What is a material alteration that constitute forgery?	003927.docx	LEGALEASE-00115868-LEGALEASE-00115869
Buchta v. Seng, 444 N.E.2d 1250	83E+712	Comaker of note can be accommodation party and is liable as maker to principal, but accommodation party's liability to principal does not affect relationship between accommodation party and party accommodated, and accommodation party is not liable to party accommodated and has right to indemnification against the accommodated party. IC 26-1-3-415, 26-1-3-415(5) (1982 Ed.).	What is the liability of an accommodation party?	Guaranty - Memo 20 - AKA.docx	ROSS-003303162-ROSS-003303163
United States v. Pipkins, 528 F.2d 559	311H+156	It is vital to claim of attorney-client privilege that the communication was made and maintained in confidence.	Is it vital to a claim of attorney-client privilege that the communication has been made and maintained in confidence?	005291.docx	LEGALEASE-00116039-LEGALEASE-00116040
Phillips v. Scalf, 778 N.E.2d 480	315+22	Under the rule of "mobilia sequuntur personam," the situs of intangible personal property is the legal domicile of the owner.	What is the situs of an intangible personal property?	Property - Memo 6 - ANG.docx	ROSS-003298117-ROSS-003298118
Chavala Co-op. v. Hortman, 93 Ga. App. 505	315+22	Unless otherwise stipulated, situs of a debt follows creditor's domicile and is construed according to laws of state in which creditor resides.	Which is the situs of a debt?	003053.docx	LEGALEASE-00116075-LEGALEASE-00116076
Henderson v. U.S Patent Comm'n, Ltd., 188 F. Supp. 3d 798	25T+112	A party may not be compelled under the Federal Arbitration Act (FAA) to submit to class arbitration unless there is a contractual basis for concluding that the party agreed to do so. 9 U.S.C.A. S 4.	Can parties be forced to arbitrate on a class-wide basis?	03819.docx	LEGALEASE-00078153-LEGALEASE-00078154
S. Owners Ins. Co. v. Cooperativa De Seguros Multiples, 143 So. 3d 439	315+603	The primary elements of ownership of property are the rights of possession, use and enjoyment, the right to change or improve the property, and the right to alienate the property.	What are the elements and rights of ownership of the property?	Property - Memo 10 - ANG.docx	LEGALEASE-00001369-LEGALEASE-00001370
Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp., 559 U.S. 662	25T+137	Under the Federal Arbitration Act (FAA), an implicit agreement to authorize class-action arbitration is not a term that the arbitrator may infer solely from the fact of the parties' agreement to arbitrate, because class-action arbitration changes the nature of arbitration to such a degree that it cannot be presumed the parties consented to it by simply agreeing to submit their disputes to an arbitrator, and the relative benefits of class-action arbitration are much less assured than the benefits of bilateral arbitration, giving reason to doubt the parties' mutual consent to resolve disputes through class-wide arbitration. 9 U.S.C.A. S 1 et seq.	Can parties specify with whom they choose to arbitrate their disputes?	003754.docx	LEGALEASE-00116156-LEGALEASE-00116158
Cincinnati Ins. Co. v. Am. Hardware Mfrs. Ass'n, 387 Ill. App. 3d 85	38+31	Whether an assignment has occurred is dependent upon proof of intent to make an assignment and that intent must be manifested.	Does the occurrence of an assignment depend upon proof of intent?	Assignments - Memo 35 - JS.docx	ROSS-003311460-ROSS-003311462

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Vitol, S.A. v. Primerose Shipping Co., 708 F.3d 527	16+7	Federal courts in the United States possess jurisdiction in admiralty over claims to enforce a foreign admiralty judgment. 28 U.S.C.A. S 1333.	Can a court of admiralty enforce a decree of a foreign admiralty?	Admiralty Law - Memo 28 - JS.docx	ROSS-003297349-ROSS-003297350
Aerojet-Gen. Corp. v. Am. Arbitration Ass'n, 478 F.2d 248	25T+111	Basic purpose of arbitration is speedy disposition of disputes without the expense and delay of extended court proceedings.	What is the basic purpose of arbitration?	004140.docx	LEGALEASE-00116232-LEGALEASE-00116233
Merit Ins. Co. v. Leatherby Ins. Co., 714 F.2d 673	25T+111	People who arbitrate do so because they prefer a tribunal knowledgeable about the subject matter of their dispute to a generalist court with its austere impartiality but limited knowledge of the subject matter.	Why do parties prefer to arbitrate?	Alternative Dispute Resolution - Memo 22 - JS.docx	LEGALEASE-00001531-LEGALEASE-00001533
Stark v. Sandberg, Phoenix & von Gontard, P.C., 381 F.3d 793	25T+111	Arbitration is not perfect system of justice, nor is it designed to be; rather, it is designed primarily to avoid complex, time-consuming and costly alternative of litigation.	For what purpose is arbitration primarily designed?	06328.docx	LEGALEASE-00078413-LEGALEASE-00078415
Int'l Bhd. of Elec. Workers, Local No. 367, AFL-CIO v. Graham Cty. Elec. Coop., 783 F.2d 897	25T+111	"Interest arbitration" is arbitration over new contract terms and is distinct from "grievance arbitration," which covers disputes regarding compliance with an existing agreement.	Differentiate between interest arbitration and grievance arbitration?	004180.docx	LEGALEASE-00116260-LEGALEASE-00116261
In re Apple iPhone 3G Prod. Liab. Litig., 859 F. Supp. 2d 1084	25T+114	Congress created the Federal Arbitration Act (FAA) to overrule the judiciary's longstanding refusal to enforce agreements to arbitrate and place such agreements on the same footing as other contracts. 9 U.S.C.A. S 1 et seq.	Is arbitration a forum for resolving disputes more expeditiously?	004202.docx	LEGALEASE-00116271-LEGALEASE-00116273
Brener v. Becker Paribas Inc., 628 F. Supp. 442	25T+111	Arbitration provides prompt and efficient method for resolving disputes, without expense, delays, or complications that are inherent in litigation, and also promotes judicial efficiency in general by reducing courts' case load.	Is arbitration an efficient method of dispute resolution?	06339.docx	LEGALEASE-00078390-LEGALEASE-00078391
Louisiana Mun. Police Employees Ret. Sys. v. Sealed Air Corp., 253 F.R.D. 300	311H+168	Attorney-client privilege will not be waived by disclosure to agent whose services are necessary for effective representation of client's interests.	Are agents of an attorney covered by attorney-client privilege?	10523.docx	LEGALEASE-00089335-LEGALEASE-00089336
Louisiana Mun. Police Employees Ret. Sys. v. Sealed Air Corp., 253 F.R.D. 300	311H+168	Attorney-client privilege will not be waived by disclosure to agent whose services are necessary for effective representation of client's interests.	Are agents of an attorney covered by attorney-client privilege?	07113.docx	LEGALEASE-00089144-LEGALEASE-00089145
Bowne of New York City v. AmBase Corp., 150 F.R.D. 465	311H+159	Under New York law, attorney-client privilege covers communications between attorney and client, as well as between two attorneys who represent client or between client and attorney's agent or between client's agent and attorney. McKinney's CPLR 4503.	Are agents of a client covered by attorney-client privilege?	005298.docx	LEGALEASE-00116207-LEGALEASE-00116208
Levy v. Senate, 34 A.3d 243	311H+146	Disclosure of a fee agreement between an attorney and client does not reveal a confidential communication and, therefore, is not subject to the attorney-client privilege.	Is a fee agreement a confidential communication?	005306.docx	LEGALEASE-00116218-LEGALEASE-00116219

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Merit Ins. Co. v. Leatherby Ins. Co., 714 F.2d 673	25T+111	People who arbitrate do so because they prefer a tribunal knowledgeable about the subject matter of their dispute to a generalist court with its austere impartiality but limited knowledge of the subject matter.	Why do parties prefer to arbitrate?	Alternative Dispute Resolution - Memo 22 - JS.docx	ROSS-003284220-ROSS-003284222
In re Bridge Construction Services of Florida, 39 F. Supp. 3d 373	354+209(1)	A vessel owner has no right to seek exoneration under Limitation of Liability Act if the owner's right to limitation of liability in the federal court is adequately protected; such protection may include stipulation that the total claim for damages will not exceed the value of the vessel, or that any claim of res judicata bearing on the limitation of liability before the federal court is waived. 46 U.S.C.A. S 30505(a).	Can the liability of a vessel owner exceed the value of the vessel?	004078.docx	LEGALEASE-00116311-LEGALEASE-00116313
Garanti Finansal Kiralama A.S. v. Aqua Marine & Trading, 697 F.3d 59	16+26	A plaintiff must explicitly designate a claim as an admiralty claim or else forego admiralty's special procedures and remedies; only if admiralty is the sole possible jurisdictional basis is the designation unnecessary. Fed.Rules Civ.Proc.Rule 9(h), 28 U.S.C.A.	What happens when a claim for relief falls within the federal courts' admiralty jurisdiction and also within the court's subject-matter jurisdiction?	Admiralty Law - Memo 24 - JS.docx	ROSS-003286139-ROSS-003286141
Pawn 1st v. City of Phoenix, 239 Ariz. 539	414+1006	A zoning board has no powers except those granted by the statutes creating it, and its power is restricted to that granted by the zoning ordinance in accordance with the statute. A.R.S. S 9-462.06.	Do zoning boards have powers other than those granted by the zoning ordinance?	06364.docx	LEGALEASE-00078375-LEGALEASE-00078376
Green v. State Civil Serv. Comm'n, 90 Ohio St. 252	253+1172	Crime of bigamy is committed when bigamous ceremonial marriage is consummated and cohabitation is not necessary to constitute crime of bigamy. Burns' Ann.St. SS 10-4204, 10-4205.	Is cohabitation necessary to constitute the commission of the crime of bigamy?	004798.docx	LEGALEASE-00116332-LEGALEASE-00116334
Ancient Coin Collectors Guild v. U.S. Customs & Border Prot., Dep't of Homeland Sec., 801 F. Supp. 2d 383	393+254	The President is not an "agency" within the meaning of the Administrative Procedure Act (APA); as a result, presidential actions are not reviewable for abuse of discretion under the APA. 5 U.S.C.A. S 702.	Are presidential actions reviewable for abuse of discretion under the Administrative Procedure Act?	004274.docx	LEGALEASE-00116573-LEGALEASE-00116575
LaPlace v. Briere, 404 N.J. Super. 585	50+1	A bailment may be created by contract, either express or implied, or by operation of law or statute.	Can a contract of bailment be created by operation of law?	Bailment - Memo 11 - ANG.docx	ROSS-003301413-ROSS-003301415
Sierra Club v. Illinois Pollution Control Bd., 2011 IL 110882	1.49E+18	State Pollution Control Board performs both quasi-legislative and quasi-judicial functions; granting of an adjusted standard is an adjudicative determination, that is, quasi-judicial in nature, while the adoption of a rule or regulation is legislative in nature. S.H.A. 415 ILCS 5/28.1(a).	When does the Pollution Control Board grant an adjusted standard to a person in an adjudicatory determination?	Environmental Law - Memo 51 - AKA.doc	LEGALEASE-00002354-LEGALEASE-00002355
Ogle Cty. Bd. on Behalf of Cty.of Ogle v. Pollution Control Bd., 272 Ill. App. 3d 184	15A+1104	Unlike court, administrative agency is statutory creation, limited in its authority by statute, and to extent that agency acts outside its statutory authority, it acts without jurisdiction.	"Is the authority of a statutory administrative agency, like the Pollution Control Board, limited by its enabling statute?"	Environmental Law - Memo 37 - AKA.doc	LEGALEASE-00002479-LEGALEASE-00002480
Brecciaroli v. Connecticut Comm'r of Env'tl. Prot., 168 Conn. 349	1.49E+04	The "evils" of unreasonable pollution, impairment or destruction of our natural resources are proper subjects for regulation under the police power. C.G.S.A. S 22a-28; C.G.S.A.Const. art. 1, S 11.	Does prevention of pollution come under the purview of the police power?	Environmental Law - Memo 8 - JS.docx	LEGALEASE-00002734-LEGALEASE-00002736

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Weiss v. Statewide Grievance Comm., 227 Conn. 802	46H+1163(5)	Judicial review of statewide grievance committee's conclusions is similar to review afforded to administrative agency decision; judicial role is limited to reviewing record to determine if facts as found are supported by evidence contained within record and whether conclusions that follow are legally and logically correct. Practice Book 1978, S 27N(f).	Is statewide grievance committee (SGC) an agency under the Administrative Procedure Act?	004594.docx	LEGALEASE-00116966-LEGALEASE-00116967
Atl. Contracting & Material Co. v. Adcock, 161 N.C. App. 273	50+5	For purposes of bailment being created by delivery of possession of goods and acceptance of delivery by bailee, "delivery" is defined as bailor's relinquishing exclusive possession, custody, and control to bailee.	What is delivery in a bailment?	004632.docx	LEGALEASE-00117023-LEGALEASE-00117024
S/M Indus. v. Hapag-Lloyd A.G., 586 So. 2d 876	50+16	Conversion may occur where there is wrongful delivery of personal property by bailee to third party, resulting in its loss to owner of property; neither sincere or apparently well-founded belief that delivery was right nor exercise of any degree of care constitutes defense even to gratuitous bailee.	When does conversion occur in a bailment?	Bailment - Memo 46 - RK.docx	ROSS-003295880-ROSS-003295881
United States v. Yokley, 542 F.2d 300	164T+4	Limited purpose of Hobbs Anti-Racketeering Act was to amend Anti-Racketeering Act of 1934 without affecting scope of 1934 Act, and by such amendment to curb the kind of labor racketeering reflected by a judicial decision, and to eliminate racketeering in the United States. 18 U.S.C.A. S 1951.	Was the purpose of the Hobbs Act to amend the Anti Racketeering Act?	005050.docx	LEGALEASE-00117048-LEGALEASE-00117049
Chorpenning v. United States, 11 Ct. Cl. 625	25T+112	To clothe a person with the authority of an arbitrator, the parties must mutually agree to be bound by his decision of the matter in controversy. An arbitrament which concludes only one of the parties would be an anomaly in the law.	How can a person get the authority of an arbitrator?	005243.docx	LEGALEASE-00116805-LEGALEASE-00116806
Warnick v. Warnick, 133 P.3d 997	157+397(5)	Just as the parol evidence rule operates to prevent extrinsic evidence from being used to contradict, subtract from, add to, or vary the terms of an unambiguous contract, it also operates to prevent extrinsic evidence from being used to avoid Revised Uniform Partnership Act's default provisions when the agreement is silent or ambiguous. Wyo.Stat.Ann. S 17-21-101.	Will the Uniform Partnership Act Provisions apply to silent or ambiguous partnership agreement?	Partnership- Memo 6 - JS.docx	ROSS-003284459-ROSS-003284460
Willowbrook Dev. Corp. v. Illinois Pollution Control Bd., 92 Ill. App. 3d 1074	149E+682	Since Pollution Control Board acted unconditionally in granting variance from ban on future connections between sanitary drainage outlets and sewer for 52 of developer's 152 proposed units, while unconditionally denying the variance for the remaining 100 units and since mere fact that Board granted partial variance did not give rise to imposition of a condition on the variance within meaning of Environmental Protection Act, Board's decision to deny variance for 100 of the units was a quasijudicial decision reviewable under the manifest weight of evidence test. S.H.A. ch. 1111/212, SS 1035, 1036.	Can the Pollution Control Board grant a variance if a regulation imposes an arbitrary or unreasonable hardship on an individual polluter under Section 35 of the Environmental Protection Act?	005031.docx	LEGALEASE-00117183-LEGALEASE-00117184
Walls v. Oxford Mgmt. Co., 137 N.H. 653	233+1252	Landlords owe general duty of reasonable care to their tenants but, as general principle, have no duty to protect tenants from criminal attack.	Does the landlord have a general duty to protect a tenant from criminal attacks?	Landlord and Tenant - Memo 03 - RK.docx	ROSS-003285577-ROSS-003285579

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Pranno, 385 F.2d 387	164T+4	Statute providing for punishment of anyone who in any way or degree obstructs, delays or affects commerce or movement of any article or commodity in commerce by extortion or conspires so to do is to be construed broadly and is not limited to conduct which directly and immediately obstructs a particular movement of goods in interstate commerce. 18 U.S.C.A. S 1951.	Did Congress intend the Hobbs Act to be broadly construed?	005066.docx	LEGALEASE-00117185-LEGALEASE-00117187
Longo v. Tauriello, 201 Misc. 35	233+1841	The Temporary State Housing Rent Commission is an "administrative agency" of the government engaged in establishing maximum rents for housing accommodations and is not a "judicial body" or a tribunal having the judicial attributes of a court. McK.Unconsol.Laws, SS 8581 et seq., 8584, 8586.	Is a rent commission an administrative agency of the government?	Administrative Law - Memo 156 - RK.docx	ROSS-003299564-ROSS-003299565
Com. v. K.M., 452 Pa. Super. 7	352H+21(2)	Female defendant could be convicted of rape, statutory rape, and incest of another female based on evidence that defendant used her lips to penetrate her minor daughter's sex organs. 18 Pa.C.S.A. SS 3121, 4302; S 3122 (Repealed).	Can incest be committed with a minor?	000435.docx	LEGALEASE-00117426-LEGALEASE-00117427
Harlan E. Moore Charitable Tr. v. United States, 812 F. Supp. 130	233+501	Under Illinois law, most important element in determining whether landlord-tenant relationship or joint venture exists is intention of parties, and burden of proving existence of joint venture is on party who claims relationship exists.	Is intention an element to determine the relationship between a landlord and a tenant?	000487.docx	LEGALEASE-00117434-LEGALEASE-00117435
Richardson v. Richardson, 309 Mich. 336	134+831	For purposes of property division incident to divorce, an obligation to pay which arises before marriage should be treated as the incurring spouse's separate debt and cannot be assigned to the non-incurring spouse. V.T.C.A., Family Code S 3.001(1, 2).	Can a spouses debt before marriage be considered as that spouses separate debt?	005125.docx	LEGALEASE-00117343-LEGALEASE-00117344
Ayres v. Hadaway, 303 Mich. 589	46H+9	The practice of law is not a "property right" or a "natural right" or right guaranteed by constitution, but a "privilege" to those who attain certain standards of learning and character.	Is the practice of law a privilege or a property right?	005157.docx	LEGALEASE-00117363-LEGALEASE-00117364
State v. Graves, 74 N.C. 396	315+51	Rails, when made up into a fence upon the land, become a part of the realty.	"Does a rail, when made up into a fence upon the land, become a part of the realty?"	005159.docx	LEGALEASE-00117365-LEGALEASE-00117366
Peter Kiewit Sons' v. Douglas Cty., 172 Neb. 710	371+2232	Bank accounts of corporation kept in bank outside of state of corporation's domicile are taxable in state of domicile unless shown to be within exception to general rule that intangible personal property has situs of domicile of owner for tax purposes.	What is the general rule regarding the location of intangible personal property?	005163.docx	LEGALEASE-00117369-LEGALEASE-00117370
Barnette v. Grizzly Processing, 809 F. Supp. 2d 636	279+9	Under Kentucky law, claims for trespass and nuisance both require that plaintiffs establish causation, i.e., that the defendants caused the harm.	Does a claim for trespass require causation?	000713.docx	LEGALEASE-00117539-LEGALEASE-00117540
Muhammad v. United States, 884 F. Supp. 2d 306	393+905	Federal Tort Claims Act (FTCA) did not waive government immunity from strict liability tort of trespass, which was alleged in occupants' complaint, which claimed that federal agents planned and authorized the entry and search of their property with the purpose of arresting a fugitive; complaint failed to allege a negligent or reckless trespass under Pennsylvania law over which court would have subject matter jurisdiction. 28 U.S.C.A. SS 1346(b), 2680(h); Restatement (Second) of Torts SS 165, 232.	Is trespass a strict liability tort?	Trespass - Memo 52-JS.docx	LEGALEASE-00004184-LEGALEASE-00004185

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Calvert & Marsh Coal Co. v. Pass, 393 So. 2d 955	386+1	Wantonness in a trespass action is established by mere knowledge on the part of the defendant of his invasion of the plaintiff's rights.	How is the element of wantonness established in a trespass action?	Trespass - Memo 9 - RK.docx	ROSS-003311187-ROSS-003311188
Corzelius v. Harrell, 143 Tex. 509	260+92.3(2)	The statutes authorizing Railroad Commission to adjust correlative rights of owners of gas in common reservoir are not unconstitutional as conferring purely judicial duties on administrative body, in view of constitutional provision authorizing legislature to pass all laws appropriate for conservation and development of state's natural resources and statutes providing for full review of Commission's orders in courts. Vernon's Ann.Civ.St. arts. 6008, SS 3, 7, 10, 11, 6049c, SS 7, 8, 6049d, S 4; Vernon's Ann.St.Const. art. 2, S 1; art. 16, S 59a, adopted Aug. 21, 1917.	Is a statute authorizing the Railroad Commission to adjust correlative rights valid?	000343.docx	LEGALEASE-00117695-LEGALEASE-00117696
State v. Parsley, 521 N.W.2d 44	203+504	Claim of accidental discharge may establish defense to charge of intentional homicide.	Can accidental discharge be used as a defense to the charge of intentional homicide?	000432.docx	LEGALEASE-00117750-LEGALEASE-00117751
State v. McCall, 245 Iowa 991	253+1141	"Incest", in short, is sexual intercourse between persons too closely related, and is comparable with "adultery" which is sexual intercourse between persons one or both of whom are married to third persons. I.C.A. S 704.1.	Is incest comparable with adultery?	000453.docx	LEGALEASE-00117722-LEGALEASE-00117723
State v. Farrington, 35 Wash. App. 799	352H+5(7)	Incest and indecent liberties do not have identical elements and violation of incest statute does not necessarily violate indecent liberties statute; therefore, incest is not a special statute superseding indecent liberties so as to deny defendant equal protection when he was charged with indecent liberties rather than incest. West's RCWA 9A.64.020.	Do incest and indecent liberties have identical elements?	Incest - Memo 7 - TH.docx	ROSS-003285479-ROSS-003285480
Travelers Prop. Cas. Co. of Am. v. Hillerich & Bradsby Co., 598 F.3d 257	219+39(2.15)	Damages are "liquidated damages" under Kentucky law, for purposes of award of prejudgment interest, when the amount in question is either agreed upon by the parties or is fixed by operation of law or the parties.	What are liquidated and unliquidated damages?	000591.docx	LEGALEASE-00117650-LEGALEASE-00117652
Jenoff v. Hearst Corp., 453 F. Supp. 541	237+120(2)	Plaintiff in a defamation action cannot recover punitive or exemplary damages in absence of proof of actual malice. U.S.C.A.Const. Amend. 1.	When can exemplary damages not be recovered by a plaintiff?	000603.docx	LEGALEASE-00117656-LEGALEASE-00117657
Glassey v. Cont'l Ins. Co., 176 Wis. 2d 587	313A+114	Strict liability and negligence are alternative theories of recovery in Wisconsin products liability cases.	Is strict liability an alternative to the negligence theory of recovery?	000661.docx	LEGALEASE-00117590-LEGALEASE-00117591
Guterman v. Target Corp., 242 F. Supp. 3d 695	313A+113	Under Illinois law, a negligence-based theory of products liability focuses on the defendant's conduct, whereas a strict products liability-based theory focuses on the product at issue.	Does the negligence based theory of product liability focuses on defendant's conduct?	Products Liability - Memo 25- JS.docx	ROSS-003298035-ROSS-003298036
Citizens Nat. Bank of Kirksville, Mo., v. Comm'r of Internal Revenue, 122 F.2d 1011	315+63	An "equitable title" is a right possessed by a person to have the legal title to property transferred to him upon the performance of specified conditions.	What is an equitable title under property law?	000678.docx	LEGALEASE-00117600-LEGALEASE-00117604
In re Rausch, 213 B.R. 364	92+1114	While right to engage in one's occupation is important right that cannot be denied without due process under the Fifth Amendment, it is not fundamental right. U.S.C.A. Const.Amend. 5.	Is a right to engage in a particular occupation a fundamental right?	Labor and Employment - Memo 1 - VP.docx	ROSS-003283625-ROSS-003283626

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Novecon Ltd. v. Bulgarian-Am. Enter. Fund, 190 F.3d 556	237+51(1)	Under District of Columbia law, the common-law malice necessary to overcome the self-defense privilege to alleged defamation is considerably different from the actual malice necessary to overcome the First Amendment privilege; while the latter requires publication with knowledge that a statement was false or with reckless disregard as to whether it was false, common-law malice, by contrast, emphasizes bad faith and evil motive. U.S.C.A. Const.Amend. 1.	Is common law malice different from actual malice?	000572.docx	LEGALEASE-00117665- LEGALEASE-00117666
Jenoff v. Hearst Corp., 453 F. Supp. 541	237+120(2)	Plaintiff in a defamation action cannot recover punitive or exemplary damages in absence of proof of actual malice. U.S.C.A.Const. Amend. 1.	When can exemplary damages not be recovered by a plaintiff?	Libel and Slander - Memo 86 - TH.docx	LEGALEASE-00004718- LEGALEASE-00004719
Antolovich v. Brown Grp. Retail, 183 P.3d 582	386+2	Intent is an element of the tort of trespass, as trespass requires an intent to cause a thing to enter the plaintiff's property. Restatement (Second) of Torts, S 158.	Is intent or intentional act an element of trespass?	000882.docx	LEGALEASE-00117942- LEGALEASE-00117943
Hoffman v. Cargill Inc., 236 F.3d 458	25T+113	The Federal Arbitration Act (FAA) established a liberal federal policy favoring arbitration agreements, and compels courts to be solicitous of both the arbitration process and its results. 9 U.S.C.A. SS 1-16.	Does the Federal Arbitration Act (FAA) compel courts to be solicitous of the arbitration process and its results?	001047.docx	LEGALEASE-00118046- LEGALEASE-00118048
State v. Ryan, 249 Neb. 218	203+523	Without element of malice or mens rea, second-degree murder statute would be of doubtful validity and perhaps unconstitutional. Neb.Rev.St. S 28-304(1).	Is malice an essential element of murder?	001066.docx	LEGALEASE-00118066- LEGALEASE-00118067
Wadsworth v. State, 275 Mont. 287	92+1114	While State Constitution encompasses right to opportunity to pursue employment generally as necessary incident of fundamental right to pursue life's basic necessities, applicable provision does not, without more, grant right or property interest in any particular job or employment. Const. Art. 2, S 3.	Is the right to employment a fundamental right?	Labor and Employment - Memo 12 - VP.docx	LEGALEASE-00004956- LEGALEASE-00004957
United States v. Loera, 952 F. Supp. 2d 862	209+278	While defendant charged with misdemeanor offense of assault by striking, beating, or wounding an Indian on tribal land, being himself 3/16ths Mojave Indian by blood, barely satisfied "Indian blood" prong of test for Indian status, he did not satisfy "tribal or government recognition" prong, where defendant's application for enrollment in tribe had been rejected on multiple occasions, defendant had never maintained his own residence on Indian reservation, defendant had not participated, to any substantial degree, in exclusively tribal, as opposed to generic "Native American," activities, and only tribe with which defendant claimed any affiliation had refused to recognize him as member; accordingly, even assuming that federal statute under which prosecution was brought, which authorized federal courts to preside over prosecutions arising out of crimes committed by "non-Indians" against Indians in Indian country, used the term "Indians" in broad sense, as not being limited to enrolled members of Indian tribe, defendant was still a "non-Indian" and thus subject to prosecution in federal court. 18 U.S.C.A. S 1152.	ho can be described as Indians or Native Americans?	Indians - Memo 2 - JS.docx	LEGALEASE-00004964- LEGALEASE-00004965

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Perry v. Wilson, 183 Ky. 155	315+22	The title to real estate is governed solely by the law of the place where it is situated.	Is title to real estate governed by the laws of the place where it is situated?	000675.docx	LEGALEASE-00118264-LEGALEASE-00118266
New York Pub. Interest Research Grp. by Wathen v. Town of Islip, 71 N.Y.2d 292	149E+595(6)	Consent order of Department of Environmental Conservation which modified prior order pertaining to town landfill by increasing landfill's permissible slope and maximum height and permitting burial of ash in one portion of landfill was not "action" triggering requirements for State Environmental Quality Review Act compliance; order on consent was modification of prior order which, itself, was order made in enforcement proceeding exempt from Act, and order imposed substantial obligations on town. McKinney's ECL SS 8-0105, subd. 5, 27-1313.	Do the Commissioner has the prosecutorial discretion to issue and modify orders in enforcement proceedings in connection with violations of Environmental Conservation Law (ECL)?	Environmental Law - Memo 88 - VP.docx	ROSS-003311279-ROSS-003311280
Hill v. Liebman, 53 Ga. App. 462	233+1354	In tenant's action for injuries caused by negligence of defendant in making repairs to premises, allegations of petition that plaintiff rented premises from defendant and that rent was paid to and accepted by defendant held sufficient as allegation of relationship of landlord and tenant, since person may be landlord without being owner (Code 1933, SS 61-111, 61-112).	Could a person be a landlord without being the owner?	Landlord and Tenant - Memo 50 - ANG.docx	ROSS-003311247-ROSS-003311248
Green Tree-AL LLC v. Dominion Res., 104 So. 3d 177	315+607	Because a manufactured home is personal property, it cannot be conveyed by deed and must be conveyed by transferring the certificate of title as required by statute. Code 1975, S 32-20-30(a).	Can a manufactured home be a personal property?	000964.docx	LEGALEASE-00118195-LEGALEASE-00118196
In re Hass, 273 B.R. 45	25T+113	Consensual resolution of litigation has been favored in the law from time immemorial, whether by the parties themselves, or through mediation or other techniques of dispute resolution.	Is consensual resolution of litigation favored in law?	Alternative Dispute Resolution - Memo 160 - RK.docx	LEGALEASE-00005382-LEGALEASE-00005383
Safer v. Nelson Fin. Grp., 422 F.3d 289	25T+139	There is strong federal policy in favor of arbitration; arbitration should not be denied unless it can be said with positive assurance that arbitration clause is not susceptible of interpretation which would cover dispute at issue.	Under what circumstances may courts deny arbitration?	001193.docx	LEGALEASE-00118428-LEGALEASE-00118429
SR Int'l Bus. Ins. Co. v. Energy Future Holdings Corp., 539 F. Supp. 2d 871	25T+112	In determining whether parties should be compelled to arbitrate a dispute, the district court applies a two-pronged test to determine: (1) whether the parties agreed to arbitrate the dispute, and (2) whether legal constraints external to the parties' agreement foreclosed arbitration of those claims.	Under what circumstances may courts deny arbitration?	Alternative Dispute Resolution - Memo 203 - RK.docx	LEGALEASE-00005490-LEGALEASE-00005491
Detroit, G.H. & M. Ry. Co. v. Weber, 248 Mich. 28	148+8	Extent to which power of eminent domain may be exercised is restricted to express terms or clear implication of statute containing grant.	Can eminent domain be applied by implication?	05824.docx	LEGALEASE-00080888-LEGALEASE-00080889
Beeland Wholesale Co. v. Kaufman, 234 Ala. 249	148+1	"Eminent domain" is in the nature of a forced sale of property rights for an amount of money equal to value of property rights.	Is eminent domain a forced or voluntary sale?	001263.docx	LEGALEASE-00118340-LEGALEASE-00118341

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
F. F. E. Co. v. United Oystermen's Union 19600, 130 N.J. Eq. 292	95+116(1)	In view of National Labor Relations Act, specifically authorizing closed shop contracts, and state legislation, providing that no injunction shall issue prohibiting requirements that all employees of a particular employer or group of employers shall be members of a particular labor organization, contract between labor union and employer, requiring union membership or permits as condition of continuance of employment, was not void as being against public policy. National Labor Relations Act S 8, 29 U.S.C.A. S 158; N.J.S.A. 2A:15-51.	Are closed shop contracts unlawful?	Labor and Employment - Memo 17 - VP.docx	ROSS-003283731-ROSS-003283732
Jobs v. Evangelista, 369 N.J. Super. 384	249+28	"Actual malice" component of a cause of action for malicious prosecution is the intentional doing of a wrongful act without just cause or excuse.	How is actual malice defined in an action for malicious prosecution?	001826.docx	LEGALEASE-00118225-LEGALEASE-00118226
Green Tree-AL LLC v. Dominion Res., 104 So. 3d 177	315+607	Because a manufactured home is personal property, it cannot be conveyed by deed and must be conveyed by transferring the certificate of title as required by statute. Code 1975, S 32-20-30(a).	Is it possible to convey a manufactured home by deed?	000974.docx	LEGALEASE-00118454-LEGALEASE-00118455
Barrett v. Manufacturers Ry. Co., 453 F.2d 1305	25T+376	Arbitration is favored by the law and the decision of the arbitrators is final and not subject to review on either the merits or procedural issues. Labor Management Relations Act, 1947, S 301, 29 U.S.C.A. S 185.	Is the decision of the arbitrator subject to review?	001140.docx	LEGALEASE-00118677-LEGALEASE-00118679
Project Reflect v. Metro. Nashville Bd. of Pub. Educ., 947 F. Supp. 2d 868	1.41E+04	In Tennessee, school-age children have a constitutional and statutory right to a public education. West's T.C.A. Const. Art. 11, S 12; West's T.C.A. SS 49-6-3001(c)(1), 49-6-3003.	Do school-age children have a constitutional and statutory right to a public education?	Education - Memo 2 - JS.docx	ROSS-003311091-ROSS-003311092
Simpson v. Harper, 21 Tenn. App. 431	146+24	Partner, though liable civilly for debts of partnership, was not liable criminally for the embezzlement by a copartner, done without partner's consent or knowledge.	"Can a partner, held civilly liable for embezzling partnership property, be held criminally liable?"	001222.docx	LEGALEASE-00118680-LEGALEASE-00118681
State v. Yell, 104 N.H. 87	146+27	Word "fraudulent" in indictment charging embezzlement includes "intent" to do act and is descriptive of motive.	What does the word fraudulent imply in an indictment charging embezzlement?	001228.docx	LEGALEASE-00118558-LEGALEASE-00118559
Whatley v. State, 135 Tex. Crim. 490	146+27	The use of word "fraudulently" is indispensable in charging offense of theft by bailee under statute providing that any person having possession of personalty by virtue of a bailment who should "fraudulently" convert such property should be guilty of theft. Pen.Code 1925, art. 1429.	Is use of the word fraudulent indispensable in charging an offence of theft?	001233.docx	LEGALEASE-00118579-LEGALEASE-00118580
Wells v. Liddy, 1 F. Supp. 2d 532	237+1.6	In defamation actions, the place of the harm, for Maryland choice-of-law purposes, has traditionally been considered to be the place where the defamatory statement was published, i.e., seen or heard by nonparties. Restatement of Conflict of Laws SS 377, 377 note.	What is place of harm in a defamation cases?	001333.docx	LEGALEASE-00118480-LEGALEASE-00118482
Graber v. Fuqua, 279 S.W.3d 608	249+36	Claims for malicious prosecution arise only after the underlying case reaches a final judgment and all appeals are exhausted.	When is judgment considered as final for malicious prosecution action?	001485.docx	LEGALEASE-00118592-LEGALEASE-00118593

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Cherry v. Dealers Transport Co., 64 F.Supp. 682	170A+655	The phrase "all pleadings shall be so construed as to do substantial justice", as used in the Federal Rules of Civil Procedure and amendments to the Missouri Civil Procedure Code pertaining to pleadings, must be given a practical meaning which does not contemplate that plaintiff may be pleading mislead his adversary or that a party should be permitted to weave a net of artificial refinements and subtle technicalities in which to catch an unwary litigant. V.A.M.S. SS 509.040, 509.050; Fed.Rules Civ.Proc. rule 8, 28 U.S.C.A.; Appendix of Forms, forms 9, 10, 28 U.S.C.A.	Should pleadings be construed to do substantial justice?	Pleading - Memo 49 - ANG.docx	ROSS-003284045-ROSS-003284046
Collins v. Int'l Dairy Queen, 168 F.R.D. 668	25T+112	Pursuant to Federal Arbitration Act, parties may not be compelled to submit commercial dispute to arbitration unless they have contracted to do so. 9 U.S.C.A. SS 2-4.	Can parties be compelled to submit commercial disputes to arbitration?	001694.docx	LEGALEASE-00118738-LEGALEASE-00118739
Leprino Foods Co. v. Gress Poultry, 379 F.Supp.2d 650	289+454	Under Pennsylvania law, to determine if a partnership exists, there must be clear, mutual assent on the part of two or more persons to form a partnership.	Is mutual assent required to form a partnership?	Partnership - Memo 48 - RK.docx	ROSS-003297975-ROSS-003297976
Salzer v. S. Poverty Law Ctr., 701 F. Supp. 2d 912	237+27	As predicted by federal court, Kentucky would follow "single publication rule," for mass publications of allegedly defamatory materials, which provides that any form of mass communication or aggregate publication is a single communication and can give rise to only one action for libel.	What is aggregate communication in defamation?	10821.docx	LEGALEASE-00081473-LEGALEASE-00081474
Camunes v. Frontier Enterprises, 61 S.W.3d 579	231H+782	The only judicially-created exception to the employment-at-will doctrine is the discharge of an employee for the sole reason that the employee refused to perform an illegal act.	Is there any judicial exception to the employment-at-will doctrine?	Labor and Employment - Memo 40 - VP.docx	ROSS-003286403-ROSS-003286404
Nelson v. Seaboard Sur. Co., 269 F.2d 882	289+507	Under Minnesota law, issue of existence of a partnership is a question of fact when there is a showing of participation in profits.	Is the existence of partnership a question of fact or a question of law?	001563.docx	LEGALEASE-00118957-LEGALEASE-00118958
Winston & Strawn LLP v. Law Firm of John Arthur Eaves, 47 F. Supp. 3d 68	289+450	Under Mississippi law, an express agreement is not required to form a partnership, and intent may be implied or established from the surrounding circumstances. Miss. Code Ann. S 79-13-202(a).	Can a partnership without an express agreement be implied through the parties conduct?	Partnership - Memo 69 - ANG.docx	ROSS-003282348-ROSS-003282350
Lutz v. Erie Ins. Exch., 848 N.E.2d 675	157+43(2)	A trial court may judicially notice a party's pleadings, whether or not facts recited in those pleadings are susceptible of judicial notice. Rules of Evid., Rule 201.	Can courts take judicial notice of pleadings?	001590.docx	LEGALEASE-00119062-LEGALEASE-00119063
People v. Sanchez, 24 Cal. 4th 983	203+507	There may be multiple proximate causes of a homicide, even where there is only one known actual or direct cause of death. West's Ann.Cal.Penal Code S 187.	Can there be multiple proximate causes for a homicide?	Homicide - Memo 42 - TH.docx	ROSS-003283970-ROSS-003283972
Mohegan Tribe v. State of Conn., 638 F.2d 612	209+120	"Within the bounds of the United States" language of 1793, 1796, 1799, and 1802 Nonintercourse statutes, which provided that no purchase of Indian lands within the bounds of the United States would be valid unless accomplished by a federal treaty, was not merely meant to exclude land transactions with tribes residing outside of the United States that claimed land within the United States. Act March 1, 1793, S 1 et seq., 1 Stat. 329; Act May 19, 1796, S 1 et seq., 1 Stat. 469; Act March 3, 1799, S 1 et seq., 1 Stat. 743; Act March 30, 1802, S 1 et seq., 2 Stat. 139; Act June 30, 1834, SS 1 et seq., 29, 4 Stat. 729.	Will Indian land transactions be unlawful under the Nonintercourse Act unless approved by the United States?	Indians - Memo 25 - TH.doc	LEGALEASE-00006857-LEGALEASE-00006859

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Karuk Tribe of California v. U.S. Forest Serv., 640 F.3d 979	209+122	Treaties signed between the United States and several California tribes in 1851 and 1852 were never ratified by the Senate, and thus have no binding effect on the United States. U.S.C.A. Const. Art. 2, S 2, cl. 2.	Is the United States bound by an Indian treaty not ratified by the Congress?	001780.docx	LEGALEASE-00118901-LEGALEASE-00118903
Porter v. Kimzey, 309 F. Supp. 993	106+508(7)	Where prosecution under criminal defamation statute affected plaintiff alone and not a group seeking to exercise some broad right of freedom of speech and arrest was based upon private warrant taken out by one citizen of state against another and was not founded on organized effort at law enforcement or harassment by public officials, action to enjoin indictment or prosecution did not lie. Code Ga. S 26-2804; U.S.C.A.Const. Amend. 1.	What is criminal defamation?	002097.docx	LEGALEASE-00119403-LEGALEASE-00119405
Brady v. Brady, 161 N.C. 324	401+4	Within the rule that a cause of action, when local, may be tried only in the state where the transaction relied on occurred, and, when transitory, may be tried elsewhere, actions are "transitory" when the transactions relied on might have taken place anywhere, and are "local" when they could not occur except in some particular place.	What is the distinction between local and transitory actions?	10830.docx	LEGALEASE-00081452-LEGALEASE-00081454
In re Application of Neb. Pub. Power Dist., 281 Neb. 350	145+1	A decision of the Power Review Board (PRB) will be affirmed if it is supported by the evidence and is not arbitrary, capricious, unreasonable, or otherwise illegal.	When will a decision of the Power Review Board be affirmed?	Electricity - Memo 9 - JS.docx	ROSS-003312705-ROSS-003312706
In re City of N. Platte, 257 Neb. 551	145+1	Decision of the Power Review Board (PRB) will be affirmed if it is supported by the evidence and is not arbitrary, capricious, unreasonable, or otherwise illegal.	When will a decision of the Power Review Board be affirmed?	002232.docx	LEGALEASE-00119315-LEGALEASE-00119316
State v. Sage, 255 Mont. 227	207+4	By purposely urging his natural daughter to have sexual relations with him, defendant completed crime of solicitation of incest justifying his conviction. MCA 45-4-101, 45-5-507; Ill.S.H.A. ch. 38, P 1-1 et seq., 8-1.	Does sexual relationship between father and natural daughter amount to incest?	Incest - Memo 42 - JS.docx	LEGALEASE-00007549-LEGALEASE-00007550
Kraft v. Langford, 565 S.W.2d 223	115+39	Concepts of temporary and permanent injuries to real property are mutually exclusive and damages for both may not be recovered in same action.	Can a party recover damages for both permanent and temporary damages in a single action?	001902.docx	LEGALEASE-00119617-LEGALEASE-00119618
State v. McCall, 245 Iowa 991	207+6	The term "sexual intercourse", as it relates to law of incest, means sexual or carnal connection, or coition, and the term necessarily includes penetration. I.C.A. S 704.1.	What is sexual penetration under incest laws?	002883.docx	LEGALEASE-00119784-LEGALEASE-00119785
Long v. Fulton Cty. Sch. Dist., 807 F	13+1	Whether a litigant has a cause of action is analytically distinct and prior to the question of what relief, if any, a litigant may be entitled to receive.	Can a litigant have cause of action?	Action - Memo 41 - RM.docx	LEGALEASE-00008725-LEGALEASE-00008727
Prof'l Real Estate Inv'rs v. Columbia Pictures Indus., 508 U.S. 49	13+2	Probable cause to institute civil proceedings requires no more than reasonable belief that there is chance that claim may be held valid upon adjudication.	When does a litigant have probable cause to initiate a suit?	002484.docx	LEGALEASE-00119905-LEGALEASE-00119907
Ray v. Donohew, 177 W. Va. 441	366+32	Doctrine of subrogation means that one who has right to pay, and does pay, that which ought to have been paid by another is entitled to exercise all remedies with creditor possessed against other.	What does the right of subrogation depend upon?	002579.docx	LEGALEASE-00120135-LEGALEASE-00120136

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Weitz Co. v. Lexington Ins. Co., 982 F. Supp. 2d 975	366+1	Under Iowa law, equitable subrogation will never be enforced when doing so would be inequitable, or where it would work injustice to others having equal equities.	When would equitable subrogation not be enforced?	Subrogation - Memo 36 - RM.docx	ROSS-003282602-ROSS-003282603
Am. Sur. Co. of New York v. State Tr. & Sav. Bank of Mt. Pleasant, 218 Iowa 1	366+1	Doctrine of equitable subrogation will not be enforced when doing so would be inequitable or where it would work injustice to others having equal equities (Code 1931, S 11667).	When would equitable subrogation not be enforced?	Subrogation - Memo 36 - RM.docx	LEGALEASE-00008830-LEGALEASE-00008831
Old Republic Life Ins. Co. v. TransWood Inc., 2016-0552 (La. App. 1 Cir. 6/2/17), 222 So. 3d 995	366+1	Subrogation may result from either the agreement of the obligor or the obligee or both with a third person, or directly by operation of law. La. Civ. Code Ann. art. 1825.	What does subrogation result from?	002616.docx	LEGALEASE-00120106-LEGALEASE-00120107
Dawson v. State Law Enf't Div., 304 S.C. 59	316P+481	State Employee Grievance Committee, as final administrative authority, may not delegate its role as final decision maker to personnel director.	Can an administrative body delegate its role of decision making?	002623.docx	LEGALEASE-00120152-LEGALEASE-00120153
Sarhank Grp. v. Oracle Corp., 404 F.3d 657	221+292	Federal arbitration law controls in deciding issue of whether enforcement of foreign arbitral award under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards would be contrary to American public policy. 9 U.S.C.A. SS 201-208.	Is an arbitration award that is contrary to public policy enforceable?	002668.docx	LEGALEASE-00120073-LEGALEASE-00120074
Mastrobuono v. Shearson Lehman Hutton Inc., 812 F. Supp. 845	360+18.77	Federal Arbitration Act did not preempt choice-of-law provision in arbitration clause, whereby parties to stock brokerage agreement agreed to arbitrate their disputes in accordance with New York law, including New York law prohibiting arbitrators from making any punitive damages awards; by agreeing to arbitrate in accordance with New York law, investors waived any potential award of punitive damages in arbitration. 9 U.S.C.A. S 1 et seq.	Can a choice-of-law provision contained in an arbitration clause preempt the Federal Arbitration Act in federal court proceedings?	002695.docx	LEGALEASE-00120150-LEGALEASE-00120151
Faroldi v. Nungesser, 144 So. 2d 568	233+531	Lease is contract imposing reciprocal obligations on parties by which one party gives to the other the enjoyment of a thing at fixed price. LSA-C.C. art. 2669.	Are there reciprocal obligations in leases?	002739.docx	LEGALEASE-00120228-LEGALEASE-00120229
In re Pub. Serv. Elec. & Gas Co.'s Rate Unbundling, Stranded Costs & Restructuring Filings, 330 N.J. Super. 65	145+11.2(1)	Electric utility's use of deferred accounting for actual costs related to societal benefits charge (SBC) and nonutility generator transition charge (NTC) did not make rate reductions illusory by preordaining that there would be a rate increase after four-year transition period involving deregulation of electric utilities, and thus, use of deferred accounting did not violate Electric Discount and Energy Competition Act of 1999. N.J.S.A. 48:3-52, subds. d, f.	Does the Electric Discount and Energy Competition Act (EDECA) prohibit deferred accounting?	002837.docx	LEGALEASE-00119935-LEGALEASE-00119936
Biro v. Conde Nast, 883 F. Supp. 2d 441	237+22	Under New York law a defamatory implication may be based on a combination of individual statements which in themselves may not be defamatory, but which might lead the reader to draw an inference that is damaging to the plaintiff.	What is defamation by implication?	Libel and Slander - Memo 127 - JS.docx	ROSS-003297478-ROSS-003297479
Gen. Prod. Co. v. Meredith Corp., 526 F. Supp. 546	237+9(1)	A corporation may be defamed by statements which cast aspersion on its honesty, credit, efficiency or its prestige or standing in its field of business.	How can a corporation be defamed?	Libel and Slander - Memo 134 - JS.docx	ROSS-003289336-ROSS-003289337

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Ford Motor Credit Co. v. Ditton, 52 Ala. App. 555	386+6	Gist of action of trespass is an injury to the possession of personal property by use of unlawful force which is essential element of action.	Can the unlawful force which is necessary to constitute trespass be constructive force?	002951.docx	LEGALEASE-00119828- LEGALEASE-00119829
Jocks v. Tavernier, 97 F. Supp. 2d 303	168+16	Under New York law, damages for false arrest are to compensate for injuries from the beginning of custody to arraignment, while damages for malicious prosecution are to compensate for injuries after arraignment.	What form of remedy is available under a claim of malicious prosecution?	003372.docx	LEGALEASE-00120264- LEGALEASE-00120265
Wimmer v. United States, 264 F. 11	384+6	Under the constitutional definition of "treason" as adhering to the enemies, giving them aid and comfort, both adherence and giving aid are necessary, and to favor or support the enemy is insufficient.	Does adherence to the enemy and rendering them aid and comfort constitute treason?	003668.docx	LEGALEASE-00120276- LEGALEASE-00120277
Long v. Fulton Cty. Sch. Dist., 807 F	13+1	Whether a litigant has a cause of action is analytically distinct and prior to the question of what relief, if any, a litigant may be entitled to receive.	Can a litigant have cause of action?	002477.docx	LEGALEASE-00120061- LEGALEASE-00120063
Hannes v. Kingdom of Roumania Monopolies Inst., 260 A.D. 189	221+426	The law granting immunity to foreign sovereigns grants like immunity to those representing them, such as ambassadors, and the immunity extends to instrumentalities and property of the sovereigns.	Does the privilege of immunity extend to the propertyof foreign sovereigns?	002995.docx	LEGALEASE-00120507- LEGALEASE-00120508
City of Redding, Cal. v. F.E.R.C., 693 F.3d 828	145+11.3(1)	The authority of the Federal Energy Regulatory Commission (FERC) to determine a just and reasonable rate is limited by being prospective only, and does not permit retroactive adjustments to rates. Federal Power Act, S 206(a), 16 U.S.C.A. S 824e(a).	Is the FERC authorized to permit retroactive adjustments to rates?	Electricity - Memo 56 - JS.docx	ROSS-003297867-ROSS- 003297868
Katzin v. United States, 120 Fed. Cl. 199	393+1027(1)	A takings claim brought under the Fifth Amendment does not accrue based on the United States' mere assertion of title; rather, the cause of action accrues when the United States interferes with a plaintiff's property rights. U.S.C.A. Const.Amend. 5.	"Can the governments mere assertion of ownership, standing alone, constitute a taking?"	Eminent Domain - Memo 130 - JS.docx	LEGALEASE-00009699- LEGALEASE-00009701
State v. Dymond, 110 N.H. 228	207+5	Absence of marriage between defendant and complainant's mother would not make alleged crime of incest by intercourse a legal impossibility. RSA 579:7.	Does the offense of incest require proof of marriage?	003215.docx	LEGALEASE-00120574- LEGALEASE-00120575
State v. Skinner, 132 Conn. 163	207+12.1	In prosecution for incest, the state is required to prove the fact that the crime has been committed and defendant's agency therein. Gen.St.1930, S 6229.	"In a prosecution, is the state required to prove defendant's agency?"	Incest - Memo 83 - RK.docx	ROSS-003297977-ROSS- 003297979
In re Tribune Media Co., 552 B.R. 282	237+4	Fault, as element of defamation claim under Maryland law, may be based either on negligence or constitutional malice, which is sometimes called "actual malice."	Can fault in a defamation case be based on negligence or malice?	003297.docx	LEGALEASE-00120582- LEGALEASE-00120583

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Langeslag, 366 B.R. 51	228+828.21(2)	Prepetition state-court judgment on radio station owner's defamation claim against Chapter 7 debtor-former employee was not entitled to collateral estoppel effect in owner's subsequent proceeding under the discharge exception for willful and malicious injury; special interrogatory given the jury did not mention debtor's contemporaneous intent, trial judge instructed jury on issue of debtor's intent in the alternative, with reference to both intentional publication and negligent publication, and nothing in the record revealed which option the jury elected in its fact-finding, so that there was no clearly-articulated finding of fact on specific intent that could be matched to bankruptcy law's requirements, and it was at least as likely as not that the issue actually decided by the jury was not identical to the issue raised by the subject discharge exception. 11 U.S.C.A. S 523(a)(6).	What is negligent publication?	Libel and Slander - Memo 158 - RK.docx	ROSS-003283993-ROSS-003283995
In re Langeslag, 366 B.R. 51	228+828.21(2)	Prepetition state-court judgment on radio station owner's defamation claim against Chapter 7 debtor-former employee was not entitled to collateral estoppel effect in owner's subsequent proceeding under the discharge exception for willful and malicious injury; special interrogatory given the jury did not mention debtor's contemporaneous intent, trial judge instructed jury on issue of debtor's intent in the alternative, with reference to both intentional publication and negligent publication, and nothing in the record revealed which option the jury elected in its fact-finding, so that there was no clearly-articulated finding of fact on specific intent that could be matched to bankruptcy law's requirements, and it was at least as likely as not that the issue actually decided by the jury was not identical to the issue raised by the subject discharge exception. 11 U.S.C.A. S 523(a)(6).	What is negligent publication?	Libel and Slander - Memo 158 - RK.docx	LEGALEASE-00009808-LEGALEASE-00009810
Cobin v. Rice, 823 F.Supp. 1419	289+936	Under California law, conduct of partners which is injurious to partnership constitutes ground for judicial dissolution of partnership. West's Ann.Cal.Corp.Code S 15032(1)(d, f).	Can the conduct of a partner be grounds for the dissolution of a partnership?	003438.docx	LEGALEASE-00120646-LEGALEASE-00120647
Zaidi v. Shah, 502 S.W.3d 434	184+7	Certain formal relationships, such as those between an attorney and client, between partners, and between a trustee and a trust beneficiary, give rise to fiduciary duties as a matter of law.	Does a fiduciary relationship exist between partners in a partnership?	003445.docx	LEGALEASE-00120654-LEGALEASE-00120655
First Nat. Bank & Tr. Co. In Larned v. Wetzel, 42 Kan. App. 2d 924	13+2	At both law and equity, an injured party cannot obtain a remedy unless there is a corresponding wrong for which a remedy is necessary.	Can a party obtain an equitable remedy without a wrong for which a remedy is necessary?	Subrogation - Memo 146 - VP C.docx	ROSS-003310862-ROSS-003310863
A. Copeland Enterprises v. Slidell Mem'l Hosp., 657 So. 2d 1292	366+27	Subrogation may result from either agreement of obligor or obligee or both with third person or directly from operation of law. LSA-C.C. art. 1825.	What does subrogation result from?	003571.docx	LEGALEASE-00120357-LEGALEASE-00120358
Chase v. Ameriquet Mortg. Co., 155 N.H. 19	366+1	Equitable subrogation applies where one who has discharged the debt of another may, under certain circumstances, succeed to the rights and position of the satisfied creditor.	When does subrogation apply?	Subrogation - Memo 75 - ANG C.docx	LEGALEASE-00009933-LEGALEASE-00009934

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Spector v. Old Town Key W. Dev., Ltd., 567 So. 2d 1017	289+1012	General partners' suit against limited partners' which sought appointment of liquidating trustee to dissolve and eventually distribute assets, was transitory claim, and need not have been brought in county in which property in question was located; any remedy provided by trustee was ancillary and did not constitute underlying major question, and no action for receiver directly affected title to property.	"In the case of in personam actions, does the presence of real property as an issue make it a local action?"	003699.docx	LEGALEASE-00120629- LEGALEASE-00120631
In re Tribune Media Co., 552 B.R. 282	237+4	Fault, as element of defamation claim under Maryland law, may be based either on negligence or constitutional malice, which is sometimes called "actual malice."	Can fault in a defamation case be based on negligence or malice?	Libel and Slander - Memo 141 - RK.docx	LEGALEASE-00010132- LEGALEASE-00010133
In re Langeslag, 366 B.R. 51	228+828.21(2)	Prepetition state-court judgment on radio station owner's defamation claim against Chapter 7 debtor-former employee was not entitled to collateral estoppel effect in owner's subsequent proceeding under the discharge exception for willful and malicious injury; special interrogatory given the jury did not mention debtor's contemporaneous intent, trial judge instructed jury on issue of debtor's intent in the alternative, with reference to both intentional publication and negligent publication, and nothing in the record revealed which option the jury elected in its fact-finding, so that there was no clearly-articulated finding of fact on specific intent that could be matched to bankruptcy law's requirements, and it was at least as likely as not that the issue actually decided by the jury was not identical to the issue raised by the subject discharge exception. 11 U.S.C.A. S 523(a)(6).	What is negligent publication?	003337.docx	LEGALEASE-00120622- LEGALEASE-00120624
Customers Bank v. Municipality of Norristown, 942 F. Supp. 2d 534	148+2.2	Under Pennsylvania law, city's filing of municipal liens against condominium units did not affect owners' use of properties until foreclosure, and thus did not constitute regulatory taking. U.S.C.A. Const.Amend. 5.	Does imposition of municipal lien constitute a taking?	003114.docx	LEGALEASE-00120699- LEGALEASE-00120700
Karam v. State, Dep't of Env'tl. Prot., 308 N.J. Super. 225	148+2.1	Neither diminution of land value itself, nor impairment of marketability of land alone, constitutes a taking. U.S.C.A. Const.Amend. 5, 14.	Can the diminution of land value or impairment of the marketability of land constitute a taking?	003122.docx	LEGALEASE-00120784- LEGALEASE-00120786
Dahlen v. Shelter House, 598 F.3d 1007	148+266	Planned homeless shelter's alleged violation of Iowa Eminent Domain Law's definition of public purpose did not necessarily give rise to a federal takings claim. U.S.C.A. Const.Amend. 5; I.C.A. S 6A.22(2)(a)(1).	Do violations of state eminent domain statutes give rise to federal constitutional claims?	Eminent Domain - Memo 159 - GP.docx	ROSS-003285382-ROSS- 003285384
Hinojosa v. Dep't of Nat. Res., 263 Mich. App. 537	148+266	Causes of action of trespass-nuisance and unconstitutional taking are differentiated by their sources and by the damages recoverable; legislature has the constitutional authority to modify or abolish the common-law tort of trespass-nuisance, but an action that establishes an unconstitutional taking may not be limited except as provided by the Constitution because of the preeminence of the Constitution. M.C.L.A. Const. Art. 10, S 2; M.C.L.A. S 691.1407(1).	Can an action that establishes an unconstitutional taking be limited?	017377.docx	LEGALEASE-00120955- LEGALEASE-00120956

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Deptford Twp. v. Woodbury Terrace Sewerage Corp., 54 N.J. 418	317A+145.1	Since powers delegated by Legislature to Public Utilities Commission are to be read broadly, exceptions to those powers must be carefully circumscribed.	Does the Public Utilities Commission have broad powers?	042566.docx	LEGALEASE-00120946- LEGALEASE-00120947
Moody v. City of Newport News, Va., 93 F. Supp. 3d 516	170A+629	In the event of conflict between the bare allegations of the complaint and any exhibit attached to the complaint, the exhibit prevails. Fed.Rules Civ.Proc.Rule 10(c), 28 U.S.C.A.	"When there is a conflict between the bare allegations of a complaint and any exhibit attached to a complaint, will the exhibit prevail?"	022915.docx	LEGALEASE-00120981- LEGALEASE-00120982
S. Walk at Broadlands Homeowner's Ass'n v. OpenBand at Broadlands, 713 F.3d 175	170A+1829	When addressing the appropriateness of dismissal for lack of standing, the court considers exhibits attached to the complaint in addition to the complaint itself, and in the event of conflict between the bare allegations of the complaint and any exhibit attached to the complaint, the exhibit prevails. Fed.Rules Civ.Proc.Rule 10(c), 28 U.S.C.A.	"When there is a conflict between the bare allegations of a complaint and any exhibit attached to a complaint, will the exhibit prevail?"	Pleading - Memo 122 - RMM.docx	LEGALEASE-00010896- LEGALEASE-00010897
Rock River Lumber Corp. v. Universal Mortg. Corp. of Wisconsin, 82 Wis. 2d 235	366+1	Conventional subrogation is a doctrine of equity, and is applied or denied upon equitable principles.	Is subrogation applied or denied upon equitable principles?	043936.docx	LEGALEASE-00120985- LEGALEASE-00120986
Compassion in Dying v. State of Wash., 79 F.3d 790	92+3767	State statute which prohibited physician-assisted suicide violated equal protection rights of mentally competent, terminally ill adults who desired physician-assisted suicide to hasten death; state law allowed terminally ill persons whose condition involved use of life sustaining equipment to obtain medical assistance in terminating that treatment while those terminally ill patients whose treatment did not involve life-support systems were denied option of hastening death with medical assistance. U.S.C.A. Const.Amend. 14; West's RCWA 9A.36.060.	Do mentally competent and terminally ill adults have a right to knowingly and voluntarily hasten their deaths?	044479.docx	LEGALEASE-00120987- LEGALEASE-00120988
Sierra Tucson v. Lee ex rel. Cty. of Pima, 230 Ariz. 255	106+207.1	Court of Appeals would accept special action jurisdiction with respect to petitioners' challenge to trial court's denial of their change of venue in underlying wrongful death suit, as an appeal could not adequately cure an erroneous venue ruling, case required interpretation of venue statute and rule, which was particularly appropriate for review by special action, and such interpretation and correct application of statute were matters of statewide importance. A.R.S. S 12-404; 16 A.R.S. Rules Civ.Proc., Rule 15(a).	Are venue rulings reviewable by special action?	008144.docx	LEGALEASE-00121647- LEGALEASE-00121648
Power Oil Co. v. Cochran, 138 Neb. 827	92+2500	The wisdom of Legislature in intrusting broad powers in division of motor fuels in department of agriculture and inspection with respect to determining program for inspection of refined petroleum products is not a matter of judicial determination, since courts are not arbiters of legislative wisdom but function as a check upon unauthorized and unconstitutional assumptions of power, and in an action attacking validity of statute as providing for excessive inspection fees, only question for determination by court is whether the fees are reasonably necessary to defray expense of inspection. Laws 1933, c. 116, S 3; Laws 1939, c. 85.	Will courts interfere in charging inspection fees?	019481.docx	LEGALEASE-00121317- LEGALEASE-00121318

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Thompson v. Nagle, 118 F.3d 1442	352H+32	Under Alabama law, conviction for rape requires evidence that victim was alive at time of intercourse. Ala.Code 1975, S 13A-6-61(a).	Does a conviction for rape require the victim to be alive when it was committed?	Sex Offence - Memo 11 - BP.docx	LEGALEASE-00011126-LEGALEASE-00011128
Johnson v. Beane, 541 Pa. 449	366+1	Goal of subrogation is to place burden of debt upon person who should bear it.	Does subrogation place the burden on the debt upon the person who should bear it?	Subrogation - Memo # 455 - C - NO.docx	ROSS-003283225-ROSS-003283226
Trogub v. Robinson, 366 Ill. App. 3d 838	366+1	"Subrogation" is the substitution of one person for another; one person stands in the shoes of another and asserts that person's rights against the defendant.	Is subrogation the substitution of one person for another?	043719.docx	LEGALEASE-00121426-LEGALEASE-00121428
Countryside Co-op. v. Harry A. Koch Co., 280 Neb. 795	366+2	Generally, "subrogation" is the right of one, who has paid an obligation which another should have paid, to be indemnified by the other.	Is subrogation the right of one who has paid an obligation which another should have paid to be indemnified by the other?	Subrogation - Memo # 484 - C - SA.docx	ROSS-003295380-ROSS-003295381
McShaffry v. Amegy Bank Nat. Ass'n, 332 S.W.3d 493	366+7(1)	Statute that provides subrogation rights for sureties includes guarantors who have paid a judgment. V.T.C.A., Bus. & C. S 34.04.	Does subrogation rights are provided to guarantors who have paid a judgment?	043995.docx	LEGALEASE-00121352-LEGALEASE-00121353
In re Steve's Furniture Warehouse, 46 B.R. 80	366+7(1)	Once guarantor has paid principal's obligation, guarantor is subrogated to creditor's rights. West's Ann.Cal.Civ.Code, S 2848.	Is a guarantor subrogated to creditor's rights once the guarantor has paid principal's obligation?	Subrogation - Memo # 684 - C - SA.docx	ROSS-003312638-ROSS-003312639
Leahy v. Haworth, 141 F. 850	83E+374	A written assignment on the back of a promissory note payable to the order of the payee, signed by such payee, is the equivalent of a blank indorsement to transfer title to the note free from equities, either under the law merchant or Comp.St.Neb.1901, S 3380, which provides that "all bonds, promissory notes, bills of exchange, foreign and inland, drawn for any sum or sums of money certain, and made payable to any person or order, or to any person or assigns, shall be negotiable by indorsement thereon so as absolutely to transfer and vest the property thereof in each and every indorsee successfully," and under such section a written guaranty, signed by the payee on the back of a note payable to his order, constitutes an indorsement with an enlarged liability, and transfers the legal title free from equities existing between the maker and payee.	Does a payee's assignment on the back of the note of all my right and title bind him as an indorser?	009550.docx	LEGALEASE-00122328-LEGALEASE-00122329
Bronco Wine Co. v. Jolly, 129 Cal. App. 4th 988	148+81.1	The takings clause protects real property, tangible personal property, and intangible property. U.S.C.A. Const.Amend. 5.	"Are real, tangible and personal property protected by taking clause?"	Eminent Domain - Memo 197 - GP.docx	ROSS-003288636-ROSS-003288637
Echtenkamp v. Loudon Cty. Pub. Sch., 263 F. Supp. 2d 1043	237+6(1)	Under Virginia law, merely offensive or unpleasant statements are not defamatory, rather, defamatory statements are those that make plaintiff appear odious, infamous, or ridiculous.	Are unpleasant and offensive statements defamatory?	021072.docx	LEGALEASE-00122282-LEGALEASE-00122284
Redwing Carriers v. Saraland Apartments, 94 F.3d 1489	289+1175(6)	Limited partner is not generally liable for obligations of partnership, although exception arises when limited partner acts like general partner in controlling partnership's business.	When does a limited partner become liable like a general partner?	021819.docx	LEGALEASE-00122483-LEGALEASE-00122484
McCrary v. Butler, 540 So.2d 736	289+429	There is no arbitrary test as to whether partnership exists, but such determination will be made upon all attendant circumstances, including right to manage and control business. Code 1975, S 10-8-20.	Is there an arbitrary test used to determine the existence of a partnership?	021861.docx	LEGALEASE-00122515-LEGALEASE-00122516

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Fed. Mgt. Co. v. Coopers & Lybrand, 137 Ohio App. 3d 366	307A+3	A motion in limine may be properly brought on the basis of collateral estoppel.	Can a motion in limine be properly brought on the basis of collateral estoppel?	Pretrial Procedure - Memo # 174 - C - CRB.docx	ROSS-003324618-ROSS-003324619
Benson v. Shuler Drilling Co., 316 Ark. 101	307A+3	When party files motion in limine to exclude evidence as hearsay, burden is on offering party to prove admissibility of evidence.	"When a motion in limine is made, does the proponent of the evidence have the burden of showing that the evidence is admissible?"	024240.docx	LEGALEASE-00121878-LEGALEASE-00121879
Three Way v. Burton Enterprises, 177 P.3d 219	307A+3	Evidence that is not relevant may be found inadmissible via a motion in limine.	Can evidence that is not relevant be found inadmissible via a motion in limine?	024248.docx	LEGALEASE-00121896-LEGALEASE-00121897
Certain Underwriters at Lloyd's, London v. S. Nat. Gas Co., 142 So. 3d 436	307A+3	A trial court has broad discretion in determining whether to grant a motion in limine.	Do trial courts have broad discretion when ruling on a motion in limine?	Pretrial Procedure - Memo # 21 - C - KA.docx	ROSS-003298235-ROSS-003298236
Chubb/Home Ins. Companies v. Outboard Marine Corp., 238 Ill. App. 3d 558	307A+3	Orders in limine are interlocutory in nature and are subject to reconsideration by trial court throughout trial; this flexibility allows court to interpret and make any necessary corrections to its order in limine during trial.	Are rulings on motions in limine considered interlocutory in nature subject to reconsideration at trial?	Pretrial Procedure - Memo # 250 - C - PB.docx	LEGALEASE-00012239-LEGALEASE-00012240
Lowder v. All Star Mills, 60 N.C. App. 699	307A+1	For pretrial motion hearings it is affidavits and not oral testimony that is preferred form of evidence.	What is the preferred form of evidence for pretrial motion hearings?	Pretrial Procedure - Memo # 463 - C - SN.docx	ROSS-003284326-ROSS-003284327
Rosebrock v. E. Shore Emergency Physicians, 221 Md. App. 1	308+43(1)	Under well-established principles of agency law, an agent's authority terminates upon the death of the principal.	Can agent terminate agency on principals death?	041310.docx	LEGALEASE-00122287-LEGALEASE-00122288
Harter v. Missouri Pub. Serv. Comm'n, 361 S.W.3d 52	317A+167	Rule of Civil Procedure that provided when computing any time period prescribed by statute, the day of the event after which the designated period of time begins to run is not included, and the last day of the period so computed is to be included, unless it is a Saturday, Sunday, or legal holiday, did not apply to the time limit for attorney to file an application for a rehearing before the Public Service Commission (PSC); Rules of Civil Procedure did not apply to proceedings in administrative agencies, and statute that required application for a rehearing to be made to the PSC before the effective date of the order did not require the computation of any period of time. V.A.M.R. 44.01(a).	Does the circuit court review the proceedings of the Public Service Commission (PSC)?	042204.docx	LEGALEASE-00122137-LEGALEASE-00122138
Chicago Rys. Co. v. Commerce Comm'n, 336 Ill. 51	317A+102	One purpose of public utility legislation is to protect established utility from destructive competition.	Does the legislation concerning public utilities protect them from destructive competition?	Public Utilities - Memo 110 - AM.docx	ROSS-003297670-ROSS-003297672
Wisconsin Tel. Co. v. Pub. Serv. Comm'n of Wisconsin, 206 Wis. 589	92+2426	Statute imposing on public utilities cost of their regulation, held not invalid as delegating legislative power to Public Service Commission in authorizing commission to exempt utility from expense of investigation when public interest requires. St.1931, SS 196.02(4), 196.41, 196.85, 198.55 (W.S.A.).	Should the public utility investigation bear the cost of investigation?	042618.docx	LEGALEASE-00122193-LEGALEASE-00122195

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Am. Contractors Indem. Co. v. Saladino, 115 Cal. App. 4th 1262	366+28	The prerequisites to the assertion of a right of subrogation are: (1) payment must have been made by the subrogee to protect his or her own interest; (2) the subrogee must not have acted as a volunteer; (3) the debt paid must be one for which the subrogee was not primarily liable; (4) the entire debt must have been paid; and (5) subrogation must not work any injustice to the rights of others.	What certain prerequisites must be satisfied by one who claims to be equitably subrogated to the rights of a secured creditor?	Subrogation - Memo # 534 - C - NO.docx	LEGALEASE-00012399-LEGALEASE-00012400
Cline v. Yamaga, 97 Cal. App. 3d 239	13+61	A cause of action arises when liability or obligation is established and suit may be brought.	Does a cause of action arise when a liability or obligation is established?	Action - Memo # 137 - C - CS.docx	ROSS-003282974-ROSS-003282975
Am. Gen. Life & Acc. Ins. Co. v. Edwards, 76 So. 3d 183	13+61	A cause of action accrues when it comes into existence as an enforceable claim, that is, when the right to sue becomes vested.	Does cause of action arise when party has right to sue?	Action - Memo # 167 - C - CS.docx	ROSS-003323057-ROSS-003323058
Hodge v. Serv. Mach. Co., 438 F.2d 347	13+61	A suit may not be brought upon a cause of action until it exists, and a cause of action does not exist until all its elements coalesce.	Can a suit be brought upon a cause of action before it exists?	Action - Memo # 175 - C - CS.docx	ROSS-003311272-ROSS-003311274
Clayworth v. Pfizer, 49 Cal. 4th 758	29T+290	That a party may ultimately be unable to prove a right to damages or restitution does not demonstrate that the party lacks standing to argue for its entitlement to them, under Unfair Competition Law (UCL) standing provision. West's Ann.Cal.Bus. & Prof.Code S 17204.	Does claim for damages for overcharge by carriers arise at time extra charge was paid?	005641.docx	LEGALEASE-00124034-LEGALEASE-00124035
In re Marriage of Klug, 130 Cal. App. 4th 1389	13+61	A cause of action is a legal obligation the plaintiff seeks to enforce against the defendant, and does not come into existence or arise until all the elements have been established.	Is a cause of action an obligation the plaintiff seeks to enforce against the defendant?	Action- Memo # 78 - C - LK.docx	ROSS-003302247-ROSS-003302248
El Hoss Eng'g & Transp. Co. v. Am. Indep. Oil Co., 183 F. Supp. 394	25T+140	Neither an alleged breach nor a repudiation of a contract precludes arbitration under an arbitration clause, and illegality of contract in whole or in part does not operate to nullify an agreement to arbitrate. 9 U.S.C.A. SS 1, 2, 4.	Does an illegal clause in a contract operate to nullify an agreement to arbitrate found in the same contract?	Alternative Dispute Resolution - Memo 405 - RK.docx	ROSS-003284999-ROSS-003285000
Koveleskie v. SBC Capital Markets, 167 F.3d 361	25T+420	Securities industry employee's Equal Pay Act and New York Human Rights Law claims were arbitrable pursuant to arbitration agreement in securities registration application. Fair Labor Standards Act of 1938, S 6, as amended, 29 U.S.C.A. S 206; N.Y.McKinney's Executive Law S 298.	Are claims regarding violations of the Equal Pay Act (EPA) subject to arbitration?	007140.docx	LEGALEASE-00123932-LEGALEASE-00123933
Telles v. Dewind, 140 A.D.3d 1701	129+107	Conduct does not have to take place in public in order for a person to be found guilty of disorderly conduct, so long as the person recklessly creates a risk of a public disturbance. McKinney's Penal Law S 240.20(1).	When is a person guilty of disorderly conduct?	06964.docx	LEGALEASE-00085346-LEGALEASE-00085347
Holy Land Found. for Relief & Dev. v. Ashcroft, 219 F. Supp. 2d 57	148+2.2	Blocking of Muslim charitable foundation's assets by Office of Foreign Asset Control (OFAC) under International Emergency Economic Powers Act (IEEPA) did not constitute taking of foundation's property without just compensation, as would violate foundation's Fifth Amendment rights, since blocking was temporary deprivation that did not vest assets in government. U.S.C.A. Const.Amend. 5.; International Emergency Economic Powers Act, S 202 et seq., 50 U.S.C.A. S 1701 et seq.	Does blocking under Executive Orders constitute takings within the meaning of the Fifth Amendment?	017471.docx	LEGALEASE-00122789-LEGALEASE-00122790

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Glob. Relief Found. v. O'Neill, 207 F. Supp. 2d 779	148+2.2	A temporary blocking of assets under the International Emergency Economic Powers Act (IEEPA) does not constitute a "taking" because it is a temporary action and not a vesting of property in the United States. U.S.C.A. Const.Amend. 5; Emergency Economic Powers Act, S 202 et seq., 50 U.S.C.A. S 1701 et seq.	Does a temporary blocking of assets constitute taking?	Eminent Domain - Memo 212 - GP.docx	ROSS-003284139-ROSS-003284140
In re Fresh & Process Potatoes Antitrust Litig., 834 F. Supp. 2d 1141	221+342	The act of state doctrine is meant to facilitate the foreign relations of the United States; it recognizes thoroughly sound principle that on occasion individual litigants may have to forgo decision on the merits of their claims because involvement of courts in such a decision might frustrate conduct of United States foreign policy.	Is the act of state doctrine meant to facilitate the foreign relations of the United States?	International Law - Memo # 89 - C - LK.docx	ROSS-003283893-ROSS-003283894
Anderson v. Gladden, 188 F. Supp. 666	221+136	The jurisdiction of a nation within its own territory is exclusive and absolute and is susceptible to no limitation not imposed by itself.	Is the jurisdiction of a nation within its own territory exclusive and absolute?	019962.docx	LEGALEASE-00122850-LEGALEASE-00122851
Mannington Mills v. Congoleum Corp., 595 F.2d 1287	221+395	In determining whether extraterritorial jurisdiction should be exercised in antitrust action between American companies, federal court should consider factors including; degree of conflict with foreign law or policy; nationality of parties; relative importance of alleged violation of conduct compared to that abroad; availability of remedy abroad and pendency of litigation there; existence of intent to harm or affect American commerce and its foreseeability; possible effects upon foreign relations if court exercises jurisdiction and grants relief; whether, if relief is granted, party will be placed in position of being forced to perform an act illegal in either country or be under conflicting requirements of both countries; whether court can make its orders effective; whether order for relief would be acceptable in this country if made by foreign agent under similar circumstances; and whether treaty with affected nations is addressed to issue.	"To qualify as an act of state, is it necessary to prove that the act occurred as a result of a considered policy determination by a government to give effect to its political and public interest?"	020260.docx	LEGALEASE-00124119-LEGALEASE-00124120
In re Philippine Nat'l. Bank, 397 F.3d 768	221+342	Act of state doctrine is to be applied pragmatically and flexibly, with reference to its underlying considerations.	Should act of state doctrine be applied pragmatically and flexibly?	International Law - Memo 325 - RK.docx	ROSS-003297056-ROSS-003297058
Agudas Chasidei Chabad of U.S. v. Russian Fed'n, 528 F.3d 934	221+387	Under the act of state doctrine, the burden of proving an act of state rests on the party asserting the defense.	Does the burden of establishing that the conduct of a foreign government amounts to an Act of State rest with the party asserting the defense?	International Law - Memo 337 - RK.docx	LEGALEASE-00013469-LEGALEASE-00013470
Daniel v. Daniel, 166 Ky. 182	302+192(2)	Where a petition states a cause of action, a general demurrer will not lie because of indefiniteness in the statement of facts; the remedy being by motion to make the petition more specific under Civ.Code Prac. S 134.	Will a demurrer lie when there is indefiniteness in the statement of facts?	Pleading - Memo 144 - RMM.docx	ROSS-003289342-ROSS-003289343
Davis v. Kraff, 405 Ill. App. 3d 20	307A+3	Whether a motion in limine should be granted is subject to the trial court's discretion.	Is a motion in limine granted subject to the discretion of the trial court and will not be reversed on appeal absent a clear showing of an abuse of that discretion?	Pretrial Procedure - Memo # 184 - C - CRB.docx	LEGALEASE-00013605-LEGALEASE-00013606

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Chicago Motor Bus Co. v. Chicago Stage Co., 287 Ill. 320	317A+194	Under Public Utilities Act, Laws 1913, p. 495, S 68, it is not sufficient to justify reversal of reasonable order of Public Utilities Commission, made in lawful exercise of its powers, that court of review should be of opinion that order was unwise or inexpedient, but, it must be arbitrary action not resting on reasonable basis for exercise of discretionary powers.	Is the Public Utilities Commission given arbitrary powers under the statute?	042223.docx	LEGALEASE-00122585-LEGALEASE-00122587
Broadvox-CLEC v. AT&T Corp., 184 F. Supp. 3d 192	317A+111	When a tariff is clear and unambiguous on its face, no construction by the court is necessary, and the parties are bound by its terms.	Are parties bound by the terms of a tariff if it is unambiguous?	Public Utilities - Memo 128 - AM.docx	ROSS-003296611-ROSS-003296612
Maryland Cas. Co. v. NSTAR Elec. Co., 471 Mass. 416	317A+111	A public utility's liability for damages may be limited by properly filed and approved tariffs.	Can a public utility limit its liability in its tariff?	042252.docx	LEGALEASE-00123580-LEGALEASE-00123581
Shenker v. Lockheed Sanders, 919 F. Supp. 55	13+61	Under New Hampshire law, a cause of action "arises" when all of the necessary elements are present.	"Does a cause of action ""arise"" when all of the necessary elements are present?"	Action - Memo # 213 - C - NO.docx	ROSS-003282225-ROSS-003282226
Doe v. Dep't of Corr., 249 Mich. App. 49	13+61	A cause of action becomes a vested right when it accrues and all the facts become operative and known.	Does a cause of action become a vested right when it accrues?	Action - Memo # 226 - C - NO.docx	ROSS-003311806-ROSS-003311807
City of Columbus v. Anglin, 120 Ga. 785	13+61	The abstract and primary rights and duties of men are determined by the substantive law, which is ever in operation but no action can be based upon substantive law alone. When there is an invasion of primary rights, then, and not until then the adjective or remedial law becomes operative and under it arise rights of action.	When does remedial law become operative in a cause of action?	005815.docx	LEGALEASE-00124882-LEGALEASE-00124884
Green v. W.R.M. & Assocs., Ltd., 174 F. Supp. 2d 459	25T+125	Discrimination claims under Title VII can be subjected to compulsory arbitration under the Federal Arbitration Act (FAA). 9 U.S.C.A. S 1 et seq.; Civil Rights Act of 1964, S 701 et seq., 42 U.S.C.A. S 2000e et seq.	Can Title VII claims be subject to compulsory arbitration?	Alternative Dispute Resolution - Memo 413 - RK.docx	ROSS-003285886-ROSS-003285887
Genesco v. T. Kakiuchi & Co., 815 F.2d 840	25T+133(2)	Party may be bound by agreement to arbitrate even absent signature. 9 U.S.C.A. S 3.	Can parties be bound by an agreement to arbitrate even absent a signature?	007171.docx	LEGALEASE-00125568-LEGALEASE-00125569
Scone Investments v. Am. Third Mkt. Corp., 992 F. Supp. 378	25T+141	Though Federal Arbitration Act requires that the arbitration agreement be in writing, party may be bound by an agreement to arbitrate even absent a signature to that agreement, and in the absence of a signed agreement, court must apply ordinary contract principles to determine whether the party can be bound by the contract. 9 U.S.C.A. S 3.	Can parties be bound by an agreement to arbitrate even absent a signature?	Alternative Dispute Resolution - Memo 425 - RK.docx	ROSS-003289998-ROSS-003289999
Snyder v. Smith, 736 F.2d 409	25T+134(5)	Courts must give effect to freely negotiated forum selection clauses in arbitration agreements.	Do courts have to give effect to freely negotiated forum selection clause?	007181.docx	LEGALEASE-00125576-LEGALEASE-00125577
Holsomback v. Akins, 134 Ga. App. 543	162+221(4.1)	Where check was given by payee's stepmother in consideration of payee's relinquishment of his share of his father's estate, a contract was formed with stepmother which was binding on her estate and which was not revoked by stepmother's death, and in such case the check might be used as evidence in support of payee's claim of indebtedness against the stepmother but not as evidence of the indebtedness itself. Code, S 113-1525.	Can a check be used as evidence in support of the payees claim of indebtedness?	06957.docx	LEGALEASE-00085352-LEGALEASE-00085353
United States v. Dimora, 750 F.3d 619	63+1(1)	Efforts to buy favor or generalized goodwill do not necessarily amount to bribery.	Do efforts to buy favor or generalized goodwill amount to bribery?	Bribery - Memo # 5 - TH.docx	ROSS-003286185-ROSS-003286186

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Karaha Bodas Co. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara (Pertamina), 313 F.3d 70	221+388	Foreign sovereign's views regarding its own laws merit, although they do not command, some degree of deference.	Does a foreign sovereigns view regarding its own laws merit some degree of deference?	International Law - Memo # 283 - C - TJ.docx	ROSS-003311077-ROSS-003311078
World Wide Minerals Ltd. v. Republic of Kazakhstahn, 116 F. Supp. 2d 98	221+342	Act of state doctrine does not demonstrate a lack of jurisdiction, but rather functions as a doctrine of abstention.	Does the act of state doctrine demonstrate a lack of jurisdiction or a lack of function as a doctrine of abstention?	International Law - Memo # 529 - TH.docx	ROSS-003314164-ROSS-003314165
Attorney Gen. of Canada v. R.J. Reynolds Tobacco Holdings, 268 F.3d 103	221+387	Under "act-of-state doctrine," court presumes validity of foreign state's laws within that state's territory.	"Under the act of state doctrine, are courts precluded from inquiring into validity of public acts of recognized sovereign power committed within its own territories?"	020528.docx	LEGALEASE-00124228-LEGALEASE-00124230
Republic of Philippines v. Marcos, 806 F.2d 344	221+342	Fact that challenged actions were taken by government no longer in power, and that country's current government seeks adjudication in United States courts, are relevant to determination of whether to apply act of state doctrine, but are not dispositive.	Does a head of state lose protection of the act of state doctrine because he was no longer head of state?	020873.docx	LEGALEASE-00125306-LEGALEASE-00125307
The Huff Energy Fund v. Longview Energy Co., 482 S.W.3d 184	302+34(6)	Where special exceptions are not filed, court construes the petition liberally in favor of the pleader.	Will a petition be construed liberally in favor of the pleader when there are no special exceptions?	022991.docx	LEGALEASE-00125411-LEGALEASE-00125412
Kaldis v. Crest Fin., 463 S.W.3d 588	302+34(1)	In the absence of special exceptions, courts must construe the pleadings liberally in favor of the pleader.	Are pleadings construed liberally in favor of the pleader?	022993.docx	LEGALEASE-00125417-LEGALEASE-00125418
In re Commitment of Kelley, 2012 IL App (1st) 110240	307A+3	A ruling on a motion in limine is a matter within the discretion of the trial court and will not be reversed absent an abuse of that discretion.	When will ruling on a motion in limine be reversed?	Pretrial Procedure - Memo # 572 - C - SSB.docx	ROSS-003324928-ROSS-003324929
Smith v. Polsky, 796 S.E.2d 354	307A+3	Trial court's ruling on a motion in limine is not a final ruling on the admissibility of the evidence in question, but only interlocutory or preliminary in nature; therefore, trial court's ruling on a motion in limine is subject to modification during the course of the trial.	Are the court's rulings on a motion in limine final?	Pretrial Procedure - Memo # 576 - C - SSB.docx	ROSS-003308972-ROSS-003308973
Krosky v. Ohio Edison Co., 20 Ohio App. 3d 10	307A+3	Granting of motion in limine is prospective order and makes no determination as to ultimate admissibility of evidence.	Are motions in limine prospective and dispositive as to the final admissibility of evidence?	032059.docx	LEGALEASE-00124413-LEGALEASE-00124414
Krosky v. Ohio Edison Co., 20 Ohio App. 3d 10	307A+3	Granting of motion in limine is prospective order and makes no determination as to ultimate admissibility of evidence.	Are motions in limine prospective and dispositive as to the final admissibility of evidence?	Pretrial Procedure - Memo # 511 - C - LK.docx	LEGALEASE-00015172-LEGALEASE-00015173
Ball v. Rao, 48 S.W.3d 332	307A+3	Repeated violations of limine orders may result in mistrials or reversals.	Do repeated violations of in limine orders result in a mistrial or a reversal?	Pretrial Procedure - Memo # 837 - C - VA.docx	ROSS-003324004-ROSS-003324005
State v. Jones, 105 N.J. Super. 493	110+404.20	In seeking to exclude certain evidence, the movant bears the initial burden of demonstrating the probability of tampering, and once this burden has been met, the burden shifts to the proponent of the evidence to submit evidence that tampering did not occur.	Does the party who files the motion in limine to exclude evidence or expert witnesses have the burden of demonstrating that the evidence or expert should be excluded?	041200.docx	LEGALEASE-00125437-LEGALEASE-00125438
Auchan USA v. Houston Lighting & Power Co., 961 S.W.2d 197	317A+111	Unless found to be unreasonable, public utility tariffs carry dignity of statutory law. Vernon's Ann.Texas Civ.St. art. 1446c-0, S 1.002.	Do tariffs carry the dignity of statutory law?	Public Utilities - Memo 150 - AM.docx	ROSS-003297888-ROSS-003297889

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First Assembly of God v. Texas Utilities Elec. Co., 52 S.W.3d 482	317A+119.1	Unless found to be unreasonable, filed tariffs govern a utility's relationship with its customers and have the force and effect of law.	Is the burden to prove the unreasonableness of a tariff on the customer?	Public Utilities - Memo 151 - AM.docx	ROSS-003285422-ROSS-003285423
Nat'l Union Fire Ins. Co. of Pittsburgh, Pa. v. KPMG Peat Marwick, 742 So. 2d 328	366+1	The right to subrogation is not absolute, but depends upon the equities and attending facts of each case.	Is a party's entitlement to subrogation dependent upon the attendant facts of each case?	Subrogation - Memo 1012 -- C- CAT.docx	ROSS-003282013-ROSS-003282014
Argonaut Ins. Co. v. C & S Bank of Tifton, 140 Ga. App. 807	366+1	Subrogation is not founded upon contract, express or implied, but upon principles of equity and justice.	Is the right of subrogation founded upon express or implied contract?	044310.docx	LEGALEASE-00124826-LEGALEASE-00124827
In re Jones, 534 B.R. 588	366+1	Under Vermont law, application of equitable subrogation is not based simply on whether a lender paid another's debt; rather, it contemplates a balancing of the equities between competing claimants.	Is equitable subrogation a remedy available to a lender that paid another's debt?	044316.docx	LEGALEASE-00125004-LEGALEASE-00125005
In re Trampush, 552 B.R. 817	366+1	Wisconsin does not follow either the majority or minority rules that require actual or constructive knowledge of other liens to defeat subrogation; Wisconsin, instead, has adopted the "Restatement Approach" to subrogation, which gives courts freedom in weighing the equitable concerns in each individual case, such that, in Wisconsin, equitable concerns reign supreme.	What is Restatement Approach in relation to subrogation?	044435.docx	LEGALEASE-00125361-LEGALEASE-00125362
Com. v. Johnston, 446 Mass. 555	203+728	Conviction of assault with intent to murder requires proof of assault and a specific intent to kill that equates with malice, and "malice," in this context, means only the absence of justification, excuse, and mitigation. M.G.L.A. c. 265, S 18(b).	Does intent to murder means intent to kill with malice?	019378.docx	LEGALEASE-00125746-LEGALEASE-00125747
McGowan v. McGowan, 4 Misc. 2d 165	302+9	In action to impress trust upon realty and to declare that parties owned property as tenants in common on ground that defendants received property upon a trust for benefit of parents of parties to action and upon death of parents, intestate, title to property vested in surviving children, defense alleging illegality of agreements set forth in complaint which did not plead supporting facts was insufficient and would be stricken. Rules of Civil Practice, rule 109.	Is an allegation of illegality without supporting facts sufficient?	023003.docx	LEGALEASE-00125598-LEGALEASE-00125599
Chapman v. DePuy Orthopedics, 760 F. Supp. 2d 1310	241+55(1)	Under Virginia law, cause of action accrues under tort law on date that injury is sustained. West's V.C.A. S 8.01-243(A).	Does a tort cause of action accrue until an injury is sustained?	Action - Memorandum - 272 - SK.docx	LEGALEASE-00015819-LEGALEASE-00015821
Adams v. U.S. Forest Serv., 671 F.3d 1138	34+2	The regulations of the army and navy have the force of law with respect to a person or subject-matter of which the Secretary has official control, but to have the force of law they must conform to the law.	Do army regulations have the force of law?	008875.docx	LEGALEASE-00126294-LEGALEASE-00126296
Schwaner v. Dep't of Army, 370 F. Supp. 2d 408	34+2	Army regulations must be in accord with directives promulgated by the Department of Defense.	Do army regulations have to be in accord with the directives promulgated by the Department of Defense?	008878.docx	LEGALEASE-00126297-LEGALEASE-00126298
United States v. Hill, 279 F.3d 731	221+331	Extraterritorial jurisdiction is proper under the "nationality theory," which permits a country to apply its statutes to extraterritorial acts of its own nationals.	"Is extraterritorial jurisdiction proper under the ""nationality theory""?"	020932.docx	LEGALEASE-00126170-LEGALEASE-00126171

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Anderson v. Bd. of Sup'rs of Louisiana State Univ. & Agr. & Mech. Coll. ex rel. Louisiana State Univ. Health Sci. Ctr., 943 So. 2d 1198	307A+3	The trial court has great discretion when ruling on evidentiary matters, such as motions in limine.	Do trial courts have the discretion to defer a ruling on a motion in limine?	037908.docx	LEGALEASE-00126108-LEGALEASE-00126109
Mid-Texas Commc'ns Sys. v. Am. Tel. & Tel. Co., 615 F.2d 1372	372+623	In the Federal Communications Commission's determination of the "public interest" question under the Communications Act, there is no doubt that competition is a relevant factor, but competition per se is not the sole touchstone for decision since competition is not the only consideration; rather, the FCC must consider all factors relating to the "public convenience and necessity." Communications Act of 1934, SS 1 et seq., 201(a), 47 U.S.C.A. SS 151 et seq., 201(a).	Is competition a relevant factor in weighing the public interest?	042360.docx	LEGALEASE-00125988-LEGALEASE-00125990
Peddicord v. Tri-City Gas Co., 232 Ala. 445	317A+111	Public utility company may require deposit by customer to guarantee payment of bills as condition precedent to rendition of service.	Does a utility require a deposit as a condition precedent to the rendition of service?	042365.docx	LEGALEASE-00126054-LEGALEASE-00126055
Scottsdale Ins. Co. v. Addison Ins. Co., 448 S.W.3d 818	366+1	Subrogation is classified as either equitable, the right to which is imposed by law, or conventional, the right to which arises from a contract.	Do subrogation rights arise by contract or by operation of law?	Subrogation - Memo 972 - C - ES.docx	ROSS-003298949-ROSS-003298950
CompuServe Inc. v. Cyber Promotions, 962 F. Supp. 1015	386+7	Harm to personal property or diminution of its quality, condition, or value as result of defendant's use can be predicate for liability for trespass to chattels. Restatement (Second) of Torts S 218(b).	When will a trespass to chattels be actionable?	Trespass - Memo 200 - RK.docx	ROSS-003286858-ROSS-003286859
Ford Motor Credit Co. v. Ditton, 52 Ala. App. 555	386+6	Gist of action of trespass is an injury to the possession of personal property by use of unlawful force which is essential element of action.	What is the gist of the action of trespass?	Trespass - Memo 205 - RK.docx	ROSS-003300586-ROSS-003300587
Norton v. Steinfeld, 36 Ariz. 536	13+61	Statute of limitations could not be set in motion before accrual of cause of action.	Can statute of limitations be set in motion before accrual of cause of action?	005505.docx	LEGALEASE-00126444-LEGALEASE-00126445
In re Trans World Airlines, 261 B.R. 103	13+61	Generally, one has right to institute suit, so that cause of action will have accrued, when a wrong has been done, a duty has been breached, or an injury has been inflicted.	When does one have a right to institute suit?	005548.docx	LEGALEASE-00126485-LEGALEASE-00126486
Law Project for Psychiatric Rights v. State, 239 P.3d 1252	30+3226	Supreme Court reviews de novo whether a party has standing to sue, as the issue raises a question of law.	Is a party's standing to sue a question of law?	Action - Memo # 226 - C - NA.docx	ROSS-003298290-ROSS-003298291
Hartley v. Sioux City & New Orleans Barge Lines, 247 F. Supp. 1015	13+61	Cause of action does not arise upon starting of action in court; it must have arisen before commencement of the action.	Does cause of action arise upon the starting of the action in court?	005687.docx	LEGALEASE-00126638-LEGALEASE-00126639
Blue Cross of W. New York v. Bd. of Co-op. Educ. Servs. Orleans-Niagara Ctys., 187 A.D.2d 933	13+61	Generally, cause of action on contract accrues when extent of damages can be ascertained, and where there is likelihood of setoffs and debits, a claim does not accrue.	Does a cause of action on contract accrue when extent of damages can be ascertained?	Action - Memo # 247 - C - SPB.docx	ROSS-003289853-ROSS-003289854

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State ex rel. Teamsters Local Union 377 v. City of Youngstown, 50 Ohio St. 2d 200	13+61	Normally, a cause of action does not accrue until such time as the infringement of a right arises.	Does a cause of action accrue until such time as the infringement of a right arises?	005729.docx	LEGALEASE-00126554-LEGALEASE-00126555
Greene & Co. v. Raymond Bros., 9 Neb. 295	13+61	It is only in the exceptional cases of fraud mentioned in Code Civ.Proc. S 237, relating to attachments, that an action can properly be commenced on a claim before it is due.	When can an action be properly commenced on a claim before it is due?	006366.docx	LEGALEASE-00126397-LEGALEASE-00126398
Lumbermens Mut. Cas. Co. v. Shaw, 684 S.W.2d 195	13+61	Legal injury must be sustained before any cause of action in any case arises.	Should legal injury be sustained before any cause of action in any case arises?	Action - Memo #271 - C - SN.docx	ROSS-003286584-ROSS-003286585
Gilchrist v. United States, 33 Fed. Cl. 791	34+2	Department of Defense (DOD) directive is controlling authority over Army regulation.	Do Department of Defense (DOD) directives control when they conflict with regulations promulgated by the Army?	008886.docx	LEGALEASE-00126375-LEGALEASE-00126376
Gainok v. Featherson, 131 Ariz. 421	8.30E+299	Although underlying contract concerned sale of realty, Uniform Commercial Code's commercial paper provisions applied to promissory note which appeared on its face to be negotiable and was assumed in parties' arguments to be negotiable. A.R.S. SS 44-2501 to 44-2579.	Does a promissory note fall within the provisions of Article 3 under the Uniform Commercial Code (UCC)?	Biils and Notes-Memo 104- ANG.docx	ROSS-003286441-ROSS-003286442
Cook v. City of Topeka, 232 Kan. 334	79+1	A clerk of a court is a ministerial officer and, without statutory authority, cannot exercise a judicial function.	Can a clerk of a Court exercise judicial functions?	013438.docx	LEGALEASE-00126766-LEGALEASE-00126767
Ferlita v. State, 380 So. 2d 1118	79+67	A clerk of court acts in purely ministerial capacity, and has no discretion to pass upon sufficiency of documents presented for filing.	Does a court clerk exercise any discretion?	013444.docx	LEGALEASE-00126772-LEGALEASE-00126773
State ex rel. McClure v. Marion Superior Court, 239 Ind. 472	79+7	Clerk of circuit court is not a county officer but is a circuit officer, and the appointive power to fill vacancies in the office resides in the Governor and not in a board of county commissioners. Burns' Ann.St. SS 49-201, 49-404, 49-405; Const. art. 6, SS 2, 9, art. 7, SS 1, 9.	Is a clerk of the circuit court a circuit officer?	013456.docx	LEGALEASE-00126782-LEGALEASE-00126783
Bailey v. United States, 78 Fed. Cl. 239	148+266	Property owner is free to attempt to invalidate government decision and also to seek compensation if he alleges that decision resulted in taking. U.S.C.A. Const.Amend. 5.	Who is entitled to compensation of a taking under the law?	017617.docx	LEGALEASE-00126528-LEGALEASE-00126529
Kramer v. Cleveland & P. R. Co., 5 Ohio St. 140	320+114(3)	Under Const. art. 8, S 4, providing that private property shall be inviolate, but subservient to the public welfare, if a compensation is paid to the owner, benefits conferred by the use of land for railroad purposes may be set off against the damages occasioned thereby.	"Is a private property subservient to the public welfare, under the takings law?"	017621.docx	LEGALEASE-00126562-LEGALEASE-00126563
Lightwater Corp. v. Republic of Argentina, 2003 WL 1878420	221+357	Failure of Republic of Argentina to make payments on bonds that it issued which were held outside the Republic was not act of the Republic dealing with property located within its territory, for purposes of act of state doctrine, which thus did not apply to bar recovery by bond owners after the Republic defaulted by halting payments on bonds.	Does the act of state doctrine apply only to actions of a nation within its territory?	International Law - Memo # 394 - ABR.docx	ROSS-003300063-ROSS-003300064
Bollenbacher v. Soc'y for Sav. in City of Cleveland, 148 Ohio St. 649	237+7(4)	A charge by one that another intended or attempted to commit a crime does not constitute slander, since mere intention is not a violation of law.	Does charging someone with intent to commit a crime constitute actionable slander?	021116.docx	LEGALEASE-00126379-LEGALEASE-00126380

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Richland Gas Co. v. Hale, 169 La. 300	190+6	Grantee of gas franchise from municipal corporation need not secure from Public Service Commission certificate of public convenience or necessity. Act No. 136 of 1898, as amended by Act No. 189 of 1920; Const.1921, art. 6, SS 3, 4.	Does a grantee of a franchise from a municipality need a certificate of convenience and necessity?	042614.docx	LEGALEASE-00126580-LEGALEASE-00126581
Sinell v. Town of Sharon, 206 Minn. 437	13+63	Laches is a strictly equitable defense, as distinguished from the absolute defense afforded by a statute of limitations.	"Is laches a strictly equitable defense, distinguished from the absolute defense afforded by a statute of limitations?"	005413.docx	LEGALEASE-00126834-LEGALEASE-00126835
Morales v. Sun Constructors, 541 F.3d 218	25T+134(3)	Heightened "knowing and voluntary" standard does not apply to arbitration agreements under Federal Arbitration Act (FAA). 9 U.S.C.A. S 1 et seq.	Is applying a knowing and voluntary standard to arbitration agreements inconsistent with FAA?	Alternative Dispute Resolution - Memo 436 - RK.docx	ROSS-003300074-ROSS-003300075
Bowes v. Indus. Bank of Chicago, 58 Ill. App. 498	8.30E+29	Every indorsement of bill may be considered as new bill drawn by indorser on acceptor in favor of payee.	Should every indorsement of a bill be considered as a new bill?	Bills and notes - Memo 107- ANG.docx	ROSS-003286633-ROSS-003286634
In re Latin Inv. Corp., 156 B.R. 102	83E+873	Whether instrument is negotiable is question of law to be determined solely from face of instrument, without reference to intent of parties. U.C.C. S 9-105(1)(i).	How should it be determined if an instrument is negotiable?	009032.docx	LEGALEASE-00126882-LEGALEASE-00126883
Hoke ex rel. Reidenbach v. Elizabethtown Area Sch. Dist., 833 A.2d 304	1.41E+31	A court is not supposed to be a "super" school board and substitute its own judgment for that of the school district, and therefore, in the absence of a gross abuse of discretion, courts will not second-guess school policies; however, courts can intervene if schools act outside their statutory authority.	Can the courts intervene when schools act outside their statutory authority?	Education - Memo # 24 - C - SU.docx	ROSS-003299969-ROSS-003299970
Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419	148+2.1	A permanent physical occupation authorized by government is a "taking" without regard to the public interest that it may serve. U.S.C.A.Const.Amends. 5, 14.	What does the term permanent physical occupation encompasses under the law?	Eminent Domain - Memo 307 - GP.docx	ROSS-003300199-ROSS-003300201
Wray v. Fitch, 95 Ohio App. 3d 249	148+2.2	To be considered part of the "taking" in an appropriation case, so that abutting landowner would be entitled to compensation, interference with access to or from property must be substantial, material or unreasonable; "substantial interference" occurs when owner is prevented from enjoying continued use to which property had been previously devoted.	When does a Substantial interference occur under the taking law?	017667.docx	LEGALEASE-00127074-LEGALEASE-00127075
Harris v. Missouri Dep't of Conservation, 755 S.W.2d 726	148+2.1	There is no litmus test for determining whether there has been a taking of private property by government; rather, most determinations must be made on case by case basis.	How is the determination whether government action constitutes a taking is made under the law?	017669.docx	LEGALEASE-00127087-LEGALEASE-00127088
Hudson v. Am. Oil Co., 152 F. Supp. 757	200+158	Only public authorities may abate any public nuisance brought about by obstruction of public highway unless "special" injury to individual exists, and difference between such injury and injury to public must be one of kind rather than merely one of degree.	Who can abate public nuisance in a highway?	018670.docx	LEGALEASE-00126986-LEGALEASE-00126987
Cunard S.S. Co. v. Mellon, 262 U.S. 100	221+138	The jurisdiction of a country over a ship flying its flag partakes more of the characteristics of personal than of territorial sovereignty, and has little application in foreign territorial waters beyond what is affirmatively or tacitly permitted by the local sovereign.	Does the jurisdiction of law of the flag doctrine partake more of the characteristics of personal than of territorial sovereignty?	International Law - Memo # 1025 - C - RY.docx	ROSS-003286597-ROSS-003286599

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Laplace v. Estate of Laplace ex rel. Laplace, 220 Fed.Appx. 69	289+802	Partnership agreement, under which remaining partners committed to purchase interest of withdrawing partner for \$100,000, controlled over New Jersey Revised Uniform Partnership Act (RUPA) provision, calling for buyout price for interests of dissociating partner based on "fair value," which applied only where subject was not covered in agreement. N.J.S.A. SS 42:1A-4(a), 42:1A-34.	"When a partner is dissociated from a partnership, will his interest be purchased for a buyout price?"	021961.docx	LEGALEASE-00127281- LEGALEASE-00127282
In re Monaco, 514 B.R. 477	366+41(6)	Under Texas law, the party seeking to establish a right to equitable subrogation bears the burden of proof to show that the right exists.	"Who bears the burden of proving the applicability of the ""equitable subrogation"" doctrine?"	044269.docx	LEGALEASE-00126929- LEGALEASE-00126930
Lang v. Nissan N. Am., 170 S.W.3d 564	413+2084	In exchange for no-fault recovery, employees have limited recovery and relinquish certain common-law rights of action against their employers which they might otherwise have had, and thus, delicate compromise between the interests of employers and employees lies at the heart of workers' compensation law.	What is at the heart of a workers compensation law?	048436.docx	LEGALEASE-00126838- LEGALEASE-00126839
Perrine v. Montone, 76 F.R.D. 444	13+65	Generally, case will be decided on basis of law in effect at time of decision.	Will a case be decided on basis of law in effect at the time of the decision?	006045.docx	LEGALEASE-00127440- LEGALEASE-00127441
First Nat. Bank of Kansas City v. Kavorinos, 364 Mo. 947	13+65	The right to judgment depends on the facts as they existed at the time of the commencement of the action and not at the time of the trial.	Must a judgment be supported by facts as they existed at the time of the commencement of an action?	006047.docx	LEGALEASE-00127459- LEGALEASE-00127460
Wright v. Smith, 124 N.E.2d 363	13+65	Rights of parties in equity are properly determined as of the date of the entry of the decree.	Will the rights of the parties in equity be determined as of the date of the entry of the decree?	006201.docx	LEGALEASE-00127519- LEGALEASE-00127521
Town of Newington v. Mazzoccoli, 133 Conn. 146	13+65	In action for declaratory judgment and for an injunction, plaintiff's right to injunctive relief should be determined as of date of trial.	"In action for injunctive relief, should a plaintiff's right be determined as of the date of trial?"	Action - Memo # 901 - C - TM.docx	ROSS-003286573-ROSS- 003286574
State v. Holt, 368 P.3d 409	67+2	Privacy interest that modern burglary statute protects is related to, though broader than, the security of habitation. West's NMSA S 30-16-3.	What is the interest that the burglary statute protects?	Burglary - Memo 14 - RK.docx	ROSS-003290046-ROSS- 003290047
Cty. Bd. of Ed. of Jones Cty. v. Smith, 239 Miss. 53	1.41E+31	Courts must enforce the school laws in accordance with the mandate from the Legislature.	Should the courts enforce the school laws in accordance with the mandate from the Legislature?	Education - Memo # 52 - C - SU.docx	ROSS-003285088-ROSS- 003285089
Poorbaugh v. United States, 27 Fed. Cl. 628	148+2.2	No taking of trees can occur unless government has taken underlying property; destruction of trees without taking of underlying land is characterized as tortious invasion or conversion and is not compensable in Court of Federal Claims. U.S.C.A. Const.Amend. 5.	Can taking of trees occur if the government hasnt taken the underlying property?	017692.docx	LEGALEASE-00127374- LEGALEASE-00127375
Harris Cty. v. Felts, 881 S.W.2d 866	148+2.19(1)	Construction of parkway in close proximity to plaintiffs' property, increasing noise at plaintiff's property due to construction activities, and increasing dust on their property, did not warrant recovery of damages for inverse condemnation where no land was physically appropriated, plaintiffs were never denied access to their property, and there was no direct restriction on use of their property; fact that property decreased in value as result of parkway project did not constitute "taking." Vernon's Ann.Texas Const. Art. 1, S 17.	What does the term direct restriction encompasses under the taking law?	017698.docx	LEGALEASE-00127481- LEGALEASE-00127482

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Warminster Twp. Mun. Auth. v. Pennsylvania Pub. Util. Comm'n, 185 Pa. Super. 431	317A+113	What may constitute a need for service justifying issuance of a certificate of public convenience depends upon locality involved and particular circumstances of each case.	What does the constitution of a need for a service depend on?	Public Utilities - Memo 228 - AM.docx	LEGALEASE-00017688-LEGALEASE-00017689
Hanson v. Blum, 53 N.D. 526	366+35	Junior lienholder selling under junior lien waives rights acquired by payment of superior lien.	Does a junior lienholder selling under a junior lien waive rights acquired by payment of the superior lien?	043384.docx	LEGALEASE-00127988-LEGALEASE-00127989
Travelers Indem. Co. of Connecticut v. Losco Group, 204 F. Supp. 2d 639	366+35	Under New York law, claims for gross negligence are not precluded by waivers of subrogation provisions.	Can a subrogation waiver bar a claim for gross negligence?	043430.docx	LEGALEASE-00127740-LEGALEASE-00127741
Footlocker v. KK & J, 69 A.D.3d 481	217+3522	Waiver of subrogation clauses are necessarily premised on the procurement of insurance by the parties.	Is waiver of subrogation clauses premised on the procurement of insurance by the parties?	Subrogation - Memo # 1191 - C - BP.docx	ROSS-003300474-ROSS-003300475
St. Paul Fire & Marine Ins. Co. v. Universal Builders Supply, 317 F. Supp. 2d 33	366+35	Waiver of subrogation clause, absent any indication of overreaching or unconscionability, is neither invalid under New York statutory law nor contrary to public policy, and thus can bar subrogated claim for gross negligence. N.Y.McKinney's GeneralObligations Law S 5-323.	"Absent any indication of overreaching or unconscionability, does a waiver of a subrogation rights provision violate General Obligations Law?"	Subrogation - Memo # 1200 - C - KBM.docx	LEGALEASE-00017770-LEGALEASE-00017771
Travelers Indem. Co. of Connecticut v. Losco Group, 204 F. Supp. 2d 639	366+35	Under New York law, claims for gross negligence are not precluded by waivers of subrogation provisions.	Does a waiver of subrogation bar claims of negligence or gross negligence?	043464.docx	LEGALEASE-00127639-LEGALEASE-00127640
Colonial Properties Realty Ltd. P'ship v. Lowder Const. Co., 256 Ga. App. 106	366+35	Waiver-of-subrogation clause in construction contract did not violate statute prohibiting indemnification of promisee to insurance contract, where clause did not indemnify property owner, but shifted risk to insurer, whether owner or construction company was at fault. O.C.G.A. S 13-8-2(b).	"Can parties to a building-related contract agree to look solely to insurance to cover their losses without violating the statute, and does such an intent of the parties recognized as a waiver of the subrogation clause?"	043478.docx	LEGALEASE-00127562-LEGALEASE-00127563
Jindra v. Diederich Flooring, 181 Wis. 2d 579	366+41(6)	Party requesting subrogation has burden of proving that there is some basis for asserting subrogation, and that subrogation should be allowed in those circumstances. (Per Day, J., with two Justices concurring and two Justices concurring in result.)	Does the party requesting subrogation have burden of proving that there is some basis for asserting subrogation?	Subrogation - Memo # 1236 - C - CK.docx	LEGALEASE-00017815-LEGALEASE-00017816
Indus. Risk Insurers v. Port Auth. of New York & New Jersey, 387 F. Supp. 2d 299	217+3522	Under New York law, waivers of subrogation rights contained in commercial leases are enforceable.	Are waivers of subrogation rights contained in commercial leases enforceable?	043512.docx	LEGALEASE-00127606-LEGALEASE-00127607
Sec. Ins. Co. of New Haven-The Connecticut Indem. Co. v. Mangan, 250 Md. 241	366+35	Rights of conventional subrogee may be limited or denied him by the terms of his agreement.	Can rights of a conventional subrogee be limited or denied to him by the terms of his agreement?	Subrogation - Memo # 1275 - C - SKG.docx	ROSS-003290402-ROSS-003290404
Bishop Baking Co. v. Forgey, 538 S.W.2d 602	413+51	Workmen's compensation law is to be liberally construed in order to accomplish its intended purposes, but, it is not a social welfare statute, and the sympathies of the court may not control its determination.	Is the Workers Compensation Act a social welfare statute?	Workers Compensation - Memo #75 ANC.docx	LEGALEASE-00017929-LEGALEASE-00017930

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Roman v. W.C.A.B. (Rohm & Haas), 163 Pa. Cmwlth. 307	413+1	State Constitution authorizes state to enact laws to compensate workers suffering from work-related injury or disease, but does not mandate that every injured or diseased worker receive compensation, and thus does not prohibit Workers' Compensation Act's 300-week limitations period for occupational disease compensation claims or Occupational Disease Act's four-year limitations period. 77 P.S. SS 411(2), 1401(c); Const.Art. III, S 18.	Does the constitution prohibit a 300-week limitation period for occupational disease compensation claims or the occupational disease acts four-year limitations period?	048536.docx	LEGALEASE-00127415- LEGALEASE-00127416
Champion Spark Plug Co. v. Reich, 121 F.2d 769	13+65	Equity is not restricted to an adjustment of rights of parties as such rights existed when suit was brought, but will give relief appropriate to events occurring pending the suit.	Does equity act in the present tense and mold its decree to actualities?	005986.docx	LEGALEASE-00128271- LEGALEASE-00128272
Lester v. Beer, 74 Cal. App. 2d Supp. 984	13+65	A plaintiff's right of action must exist when he commences his action, since the rights of the parties are to be judged by the conditions existing when action was begun.	Can a plaintiff's right of action exist when he commences his action?	005993.docx	LEGALEASE-00128287- LEGALEASE-00128288
Dunn Indus. Grp. v. City of Sugar Creek, 2002 WL 31548615	25T+113	Guarantor who is not signatory to contract containing arbitration clause is generally not bound by the arbitration clause, but in most state courts, including Missouri, the strong federal policy in favor of arbitration means arbitration agreements are enforced against guarantors or sureties where the arbitration agreement is incorporated by reference into the guaranty or performance bond.	Is a guarantor who is not a signatory to a contract containing an arbitration clause bound by the arbitration clause?	007271.docx	LEGALEASE-00128672- LEGALEASE-00128673
United States v. McGee, 432 F. Supp. 557	34+1	Providing for the common defense is the obligation of the national military establishment and such obligation runs to all citizens irrespective of location. U.S.C.A.Const. art. 1, S 8.	Is providing for the common defense an obligation of the military?	Armed Forces - Memo 11-RK.docx	LEGALEASE-00018123- LEGALEASE-00018124
In re Brodie, 128 F. 665	34+2	Rules and orders promulgated by the Secretary of War for the government of the army are presumed to be issued by the Secretary with the approbation and under the direction of the President, as commander in chief, though they do not expressly so state.	Should rules and orders publicly promulgated through the secretary of war be treated as the acts of the president?	Armed Forces - Memo 29-RK.docx	LEGALEASE-00018158- LEGALEASE-00018159
Simmons v. Brown, 497 F. Supp. 173	34+2	Regulations of the various branches of the service must be in accordance with those of the Department of Defense.	Should regulations of various branches of the service be in accordance with those of the Department of Defense?	008349.docx	LEGALEASE-00128632- LEGALEASE-00128633
Shulas v. Estabrook, 385 N.J. Super 91	307A+515.1	When a party moves to voluntarily dismiss an action, whether to dismiss with or without prejudice, whether to impose terms, and the crafting of terms that are fair and just in the circumstances, are all matters that lie within the court's sound discretion; in exercising that discretion, the court is chiefly required to protect the rights of the defendant. R. 4:37-1(b).	Does an examination into the propriety of a voluntary dismissal without prejudice require an investigation into the reasons for seeking the order as well as the actions or inactions of the parties that preceded its entry?	039192.docx	LEGALEASE-00128316- LEGALEASE-00128317
Commonwealth Tel. Co. v. Carley, 192 Wis. 464	317A+112	Whether corporation is public utility, subject to control of Railroad Commission, is determined by its acts.	Should one rely on what a charter of a corporation says it does while determining whether it is a public utility?	042483.docx	LEGALEASE-00128295- LEGALEASE-00128296
Cent. Tr. Co. v. Calumet Co., 260 Ill. App. 410	317A+101	The fact that articles of incorporation authorize company to engage in public utility business, within purview of statute requiring public utilities commission to authorize mortgage by public utility, does not make corporation a public utility until business of public utility is actually operated. S.H.A. ch. 1112/323, S 27.	Is a charter a naked authority to do business by companies?	042485.docx	LEGALEASE-00128299- LEGALEASE-00128301
In re Rebel Rents, 307 B.R. 171	366+38	Like other equitable remedies, right to subrogation may be lost by waiver, laches, or estoppel.	"Can you lose subrogation rights by waiver, laches, or estoppel?"	043266.docx	LEGALEASE-00128401- LEGALEASE-00128402

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Wright v. Smith, 124 N.E.2d 363	13+65	Rights of parties in equity are properly determined as of the date of the entry of the decree.	Are the rights of parties in equity determined as of the date of the entry of the decree?	006181.docx	LEGALEASE-00128737-LEGALEASE-00128738
Henson v. Bank of Am., 935 F. Supp. 2d 1128	83E+417	Under Colorado law, if an instrument is payable to the bearer, it may be negotiated by transfer of possession alone.	Can an instrument payable to bearer be negotiated by transfer of possession alone?	Bills and Notes - Memo 157 - RK.docx	ROSS-003312636-ROSS-003312637
Bank of New York v. Raftogianis, 418 N.J. Super. 323	83E+426	A note initially made payable "to order" that becomes a bearer instrument by being endorsed in blank can be both transferred and negotiated by delivery alone. N.J.S.A. 12A:3-109(c).	Can an instrument payable to bearer be negotiated by transfer of possession alone?	009364.docx	LEGALEASE-00129016-LEGALEASE-00129017
Colt v. Mt. Princeton Trout Club, 78 P.3d 1115	101+1526(2)	In a closely held corporation, the relationship between directors and shareholders is akin to a relationship among partners; directors owe the highest degree of loyalty and trust to the other shareholders, are required to exercise good faith, and may not use their power to harm the other shareholders.	Is the relationship between shareholders in a closely held corporation analogous to that of partners?	022046.docx	LEGALEASE-00128972-LEGALEASE-00128973
Goedmakers v. Goedmakers, 520 So. 2d 575	401+5.1	When suit is merely for payment of money, such as purchase price of property, there is no "property in litigation" and venue cannot be asserted on that basis. West's F.S.A. S 47.011.	When a lawsuit is for payment of money such as the purchase price of the property can the action come under the mandatory venue statute?	047492.docx	LEGALEASE-00128879-LEGALEASE-00128880
Residential Sav. Mortg. v. Keesling, 73 So. 3d 280	401+8.2	Venue on mortgagor's action against mortgagee for fraud and negligence regarding mortgagee's solicitation of and inducement to mortgagor to take out a new mortgage loan was in Broward County, although the causes of action concerned a refinancing on mortgagor's home which was located in Pinellas County and mortgagor might have signed the documents in Pinellas County, where mortgagor was seeking money damages, real property was not in litigation by virtue of her claims, which sounded in negligence, misrepresentation, and fraud, and closing occurred in, and funds were disbursed from, Broward County, which was the only county in which mortgagee had an office. West's F.S.A. S 47.051.	Can real property be considered in litigation for venue purposes based on prior litigation?	047506.docx	LEGALEASE-00128893-LEGALEASE-00128894
Meadows Indem. Co. v. Baccala & Shoop Ins. Servs., Ins., 760 F. Supp. 1036	25T+139	While parties may not be compelled to submit commercial dispute to arbitration unless they have contracted to do so, federal policy requires district court to construe arbitration clauses as broadly as possible and any doubts concerning scope of arbitrable issue should be resolved in favor of arbitration.	Does federal policy favoring arbitration require courts to construe arbitration clauses as broadly as possible?	Alternative Dispute Resolution - Memo 487 - JK.docx	LEGALEASE-00018874-LEGALEASE-00018875
Champion Auto Sales v. Polaris Sales Inc., 943 F. Supp. 2d 346	25T+139	Under the Federal Arbitration Act (FAA), the Court resolves doubts in favor of arbitration and enforces privately-negotiated arbitration agreements in accordance with their terms. 9 U.S.C.A. S 2.	How do courts enforces privately-negotiated arbitration agreements?	Alternative Dispute Resolution - Memo 489 - JK.docx	LEGALEASE-00018876-LEGALEASE-00018877
Consol. Bathurst, Ltd. v. Rederiaktiebolaget Gustaf Erikson, 645 F. Supp. 884	25T+138	Under Arbitration Act, arbitration clauses are to be generously construed and all doubts are to be resolved in favor of arbitration. 9 U.S.C.A. S 1 et seq.	Should arbitration clauses be generously construed and all doubts resolved in favor of arbitration?	007312.docx	LEGALEASE-00129103-LEGALEASE-00129104
Sea Pines Ass'n for Prot. of Wildlife v. S.C. Dep't of Nat. Res., 345 S.C. 594	287+6(2)	A real party in interest is one who has a real, material, or substantial interest in the subject matter of the action, as opposed to one who has only a nominal or technical interest in the action.	Who is a real party in interest?	Appeal and error - Memo 33 - RK.docx	ROSS-003300703-ROSS-003300705
Landers v. Joerger, 15 Ariz. 480	30+13	While a valid, subsisting appeal is pending in the Supreme Court a writ of error, if prosecuted, will be dismissed.	Can a writ of error be prosecuted when a valid subsisting appeal is pending?	Appeal and error - Memo 54 - RK.docx	ROSS-003300032-ROSS-003300033

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Delta Acceptance Corp. v. Goldman, 388 So. 2d 85	83E+417	If an instrument was originally bearer paper it remained so in spite of special endorsements, under law as it existed prior to January 1, 1975. LSA-R.S. 10:3-204(1).	Does an instrument which is originally bearer paper remain so after special endorsements?	Bills and Notes - Memo 161 - RK.docx	ROSS-003299208-ROSS-003299209
Wyoming Sawmills Inc. v. U.S. Forest Serv., 383 F.3d 1241	149E+679	United States Forest Service's action will be reversed only if it is arbitrary, capricious, otherwise not in accordance with the law, or not supported by substantial evidence.	What standard of review is used in reviewing the Forest Services actions?	047584.docx	LEGALEASE-00129137-LEGALEASE-00129138
Inland Wetlands & Watercourses Comm'n of Town of Wallingford v. Andrews, 139 Conn. App. 359	30+4	Proper way to vindicate a legal position is not to disobey the court orders, but rather to challenge them on appeal.	What is the proper way to vindicate a legal position?	Appeal and error - Memo 38 - RK.docx	ROSS-003314171-ROSS-003314172
Serco Co. v. Choice Bumper, 199 Ga. App. 846	30+14(4)	Although cross appeal may survive dismissal of main appeal, this is true only where cross appeal can stand on its own merit. O.C.G.A. S 5-6-48(e).	When can a cross appeal survive dismissal of the main appeal?	Appeal and error - Memo 76 - RK.docx	ROSS-003314196-ROSS-003314197
Corona v. Laird, 357 F. Supp. 1357	34+3(1)	If army rulings are found to be discretionary they are beyond power of review of civilian courts in absence of unusual circumstances.	Can discretionary rulings of an army be subject to judicial review?	008379.docx	LEGALEASE-00129350-LEGALEASE-00129351
People v. Borgen, 282 Ill. App. 3d 116	67+2	Offenses of burglary and residential burglary are mutually exclusive, i.e., residential burglary can be committed only in dwelling place, whereas burglary cannot. S.H.A. 720 ILCS 5/19-1(a), 19-3(a).	Are burglary and residential burglary mutually exclusive offenses?	Burglary - Memo 43 - RK.docx	ROSS-003299318-ROSS-003299320
People v. Mooney, 145 Cal. App. 3d 502	67+2	In order to commit auto burglary, the vehicle must be locked and entry made without consent of the owner. West's Ann.Cal.Penal Code S 459.	How is auto burglary committed?	Burglary - Memo 45 - RK.docx	ROSS-003327204-ROSS-003327205
United States v. Dooley, 228 F. Supp. 3d 733	350H+1263	"Generic burglary," as enumerated predicate prior violent felony, as basis for sentence enhancement under the Armed Career Criminal Act (ACCA), is an unlawful or unprivileged entry into, or remaining in, a building or other structure, with intent to commit a crime. 18 U.S.C.A. S 924(e)(2)(B)(ii).	What is a generic burglary?	013215.docx	LEGALEASE-00129636-LEGALEASE-00129638
D.S.S. v. State, 806 So. 2d 554	67+7	Ownership for the purposes of charging burglary is not the same as ownership in property law since burglary is a disturbance to habitable security and not to the fee; actual ownership is not required, rather "ownership" means any possession which is rightful as against the burglar and is satisfied by proof of special or temporary ownership, possession, or control. West's F.S.A. S 810.02.	Is burglary a disturbance to habitable security?	Burglary - Memo 50 - RK.docx	ROSS-003300893-ROSS-003300894
Bogart v. Unified Sch. Dist. No. 298 of Lincoln Cty., Kansas, 432 F. Supp. 895	316P+194	Purpose of tenure and continuing contract laws is to give recognition to a constitutionally protectible interest. K.S.A. 72-5411.	What is the purpose of tenure and continuing contract laws?	Education - Memo # 76- C-NA.docx	LEGALEASE-00019170-LEGALEASE-00019171
Wood v. Strickland, 420 U.S. 308	141E+735	It is not the role of the federal courts to set aside decisions of school administrators which the court may view as lacking a basis in wisdom or compassion.	Do public high school students have substantive and procedural rights while at school?	016978.docx	LEGALEASE-00129275-LEGALEASE-00129276

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Quick v. Andresen, 238 Or. 433	228+197	A judgment of nonsuit is the only method of dismissing an action at law, as distinguished from a suit in equity.	Is a judgment of nonsuit the only method of dismissing an action at law?	Pretrial Procedure - Memo # 1163 - C - BP.docx	ROSS-003301093-ROSS-003301094
Robinson v. Gen. Mills Restaurants, 110 N.C. App. 633	307A+513	Crucial element in notice of dismissal is intention of party actually to dismiss case.	"Is the ""crucial element"" of a voluntary dismissal the intention of the party actually to dismiss the case?"	024702.docx	LEGALEASE-00129233-LEGALEASE-00129234
Toscano v. Delgado, 506 S.W.2d 317	307A+501	Save in exceptional circumstances, the right of plaintiff, on timely demand, to take a nonsuit is unlimited.	Is a plaintiff's right to take a nonsuit unlimited?	024706.docx	LEGALEASE-00129251-LEGALEASE-00129253
First Am. Nat. Bank of Iuka v. Alcorn, 361 So. 2d 481	307A+502	Although right of a complainant to take a nonsuit is large, it is not unlimited and lies within discretion of court. Code 1972, S 11-7-125.	Is a plaintiff's right to take a nonsuit unlimited?	Pretrial Procedure - Memo # 1031 - C - KI.docx	LEGALEASE-00019272-LEGALEASE-00019274
Alvarado v. Hyundai Motor Co., 885 S.W.2d 167	307A+501	Rule concerning nonsuits was designed to allow plaintiff to avoid unexpected emergencies. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	Is the nonsuit rule designed to allow the plaintiff to escape from unexpected emergencies?	Pretrial Procedure - Memo # 1032 - C - KI.docx	LEGALEASE-00019275-LEGALEASE-00019276
Anderson v. Sonoco Prod. Co., 112 Ohio App. 3d 305	307A+501	"Plaintiff" is the party who brings action for purposes of rule providing that action may be dismissed by "plaintiff" without order of court by filing notice of dismissal before commencement of trial. Rules Civ.Proc., Rule 41(A)(1).	"Can a plaintiff voluntarily dismiss the action once, without prejudice at any time prior to the commencement of trial?"	Pretrial Procedure - Memo # 1167- C - BP.docx	ROSS-003326519-ROSS-003326520
Judge of Prob. v. Abbot, 13 N.H. 21	307A+506.1	Before opening his case, plaintiff may become nonsuit as a matter of right; after the opening and before verdict, he may, with consent of the court.	"Before opening his case, can a plaintiff become nonsuit as a matter of right?"	Pretrial Procedure - Memo # 1328 - C - RY.docx	ROSS-003300478-ROSS-003300479
Guglielmoni v. Diamond, 263 A.D. 1012	307A+501	Generally, a plaintiff is entitled to discontinue an action upon appropriate terms.	Is a plaintiff entitled to discontinue an action upon appropriate terms?	039530.docx	LEGALEASE-00129374-LEGALEASE-00129375
Aucoin v. Fell, 779 So. 2d 1087	317A+114	Articles providing means for owner of enclosed estate to access property by foot or vehicle through servitude of passage do not allow owner right of servitude of passage for utilities. LSA-C.C. arts. 689, 705.	Is an enclosed estate granted the right of servitude of passage for utilities?	Public Utilities - Memo 254 - AM.docx	LEGALEASE-00019503-LEGALEASE-00019504
Nitro Distrib. v. Alticor, 453 F.3d 995	25T+141	An agent is subject to the same contractual provisions, including arbitration contracts, to which the principal is bound.	Is an agent subject to the same contractual provisions to which the principal is bound?	007346.docx	LEGALEASE-00130203-LEGALEASE-00130204
E.I. DuPont de Nemours & Co. v. Rhone Poulenc Fiber & Resin Intermediates, S.A.S., 269 F.3d 187	25T+141	When the non-signatory to an arbitration agreement knowingly exploits the agreement containing the arbitration clause despite having never signed the agreement, courts prevent a non-signatory from embracing a contract, and then turning its back on the portions of the contract, such as an arbitration clause, that it finds distasteful. 9 U.S.C.A. S 1 et seq.	Is a non-signatory precluded from embracing a contract?	Alternative Dispute Resolution - Memo 515 - RK.docx	LEGALEASE-00019569-LEGALEASE-00019570
Alcaraz v. Avnet, 933 F. Supp. 1025	25T+146	Employee's claims of national origin, age, and sex discrimination were not arbitrable, where employment agreement entered into by parties authorized arbitrator to award damages for breach of contract only and did not give arbitrator authority to make an award of other damages.	Can parties exclude statutory claims from the scope of an arbitration agreement?	007376.docx	LEGALEASE-00130235-LEGALEASE-00130236
Heisler v. Hines Motor Co., 282 Mont. 270	307A+743	Pretrial order serves to prevent surprise, simplify the issues, and permit counsel to prepare their case for trial.	What does a pretrial order serve to do?	026398.docx	LEGALEASE-00130038-LEGALEASE-00130041
King v. Zimmerman, 266 Mont. 54	307A+743	Purpose of pretrial orders is to prevent surprise, simplify issues, and permit counsel to prepare their case for trial on basis of pretrial orders.	What is the purpose of pre-trial orders?	Pretrial Procedure - Memo # 1554 - C - CK.docx	ROSS-003287630-ROSS-003287631

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Malerbi v. Cent. Reserve Life of N. Am. Ins. Co., 225 Neb. 543	307A+742.1	Pretrial conferences are conducted to simplify issues, amend pleadings, and avoid unnecessary proof of facts at trial and to avoid traps and surprises at trial.	What are Pretrial conferences conducted for?	026609.docx	LEGALEASE-00130019-LEGALEASE-00130020
Frank v. Am. Gen. Fin., 23 F. Supp. 2d 1346	25T+143	Existence of an arbitration agreement between a plaintiff and a defendant does not necessarily mean that all of the plaintiff's claims against that defendant are arbitrable under the agreement.	Does the existence of an arbitration agreement between a plaintiff and a defendant mean that all of the plaintiffs claims against the defendant are arbitrable?	007425.docx	LEGALEASE-00131386-LEGALEASE-00131388
State v. Taylor, 136 Ohio Misc. 2d 18	67+2	Essence of crime of burglary is not value, but rather entry into a specific structure with an intent to commit a theft or any felony therein. A.R.S. S 13-302(A).	What is the essence of burglary?	Burglary - Memo 29 - RK.docx	ROSS-003313651-ROSS-003313652
People v. Beauchamp, 241 Ill. 2d 1	67+2	The purpose of the burglary statute is to protect the security and integrity of certain specified enclosures, including motor vehicles. S.H.A. 720 ILCS 5/19-1(a).	What is the purpose of the burglary statute?	Burglary - Memo 32 - RK.docx	ROSS-003314342-ROSS-003314344
Morris v. State, 166 Ga. App. 137	67+22	Indictment for burglary must specify location of burglary, and contain some allegation regarding ownership of burglarized premises. Code, S 27-701.	Does a burglary indictment have to specify the location of the burglary?	013296.docx	LEGALEASE-00131413-LEGALEASE-00131414
People v. Tatem, 62 Cal. App. 3d 655	210+815	By statutory definition, petty theft, or theft of any kind, is not a necessarily included offense of burglary, because burglary can be committed without committing theft. West's Ann.Pen.Code, SS 459, 484(a).	Is theft a lesser included offense of burglary?	Burglary - Memo 87 - JK.docx	ROSS-003286753-ROSS-003286754
State Bd. of Ret. v. Bulger, 446 Mass. 169	79+8	The standard for removing a clerk-magistrate from office, where required by the "public good," is broad, and in contrast, the standard for pension forfeiture based on dereliction of duty is more narrow and specific. M.G.L.A. c. 211, S 4; c. 32, S 15(4).	What is the standard for pension forfeiture of a clerk based on dereliction of duty?	013403.docx	LEGALEASE-00131248-LEGALEASE-00131249
State ex rel. Butte-Los Angeles Mining Co. v. Dist. Court of Second Judicial Dist., 103 Mont. 140	307A+501	Plaintiff has no absolute right at all times under all circumstances to discontinue, dismiss, or take a nonsuit.	"Does a plaintiff have no absolute right to discontinue, dismiss or take a nonsuit?"	Pretrial Procedure - Memo # 1236 - C - UG.docx	ROSS-003327964-ROSS-003327965
Hutchison v. Seariver Mar., 22 So. 3d 989	307A+742.1	The ultimate purpose of a scheduling order is to hasten the matter to judgment by selecting deadlines for the parties to conclude all pretrial matters.	What is the purpose of a scheduling order?	Pretrial Procedure - Memo # 1432 - C - SKG.docx	ROSS-003299652-ROSS-003299653
In re Ashcroft, 888 F.2d 546	307A+742.1	Pretrial conference discussion of settlement is designed to encourage and facilitate settlement as early as possible, but is not designed to impose settlement on unwilling litigants. Fed.Rules Civ.Proc.Rule 16 note, 28 U.S.C.A.	When is the encouragement of settlement a valid subject for consideration in pretrial conference?	026489.docx	LEGALEASE-00131135-LEGALEASE-00131136
Carnes v. Meadowbrook Exec. Bldg. Corp., 17 Kan. App. 2d 292	307A+742.1	Primary purposes of pretrial conference are to reduce, if not completely remove, uncertainty from trial, to determine exactly what issues are involved, and to establish what procedures are to be followed.	What is the primary purpose of a pretrial conference?	Pretrial Procedure - Memo # 1480 - C - ES.docx	LEGALEASE-00020540-LEGALEASE-00020541
SurgiJet v. Hicks, 236 Ga. App. 80	307A+717.1	A motion for a continuance based on an absent witness is addressed to the sound legal discretion of the trial court and no error will be assigned unless it appears that the trial court abused that discretion in passing on the motion.	How is a motion for discontinuance based on an absent witness addressed?	Pretrial Procedure - Memo # 1737 - C - NS.docx	LEGALEASE-00020740-LEGALEASE-00020741

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LaRose v. Curoe, 343 N.W.2d 153	307A+742.1	Rationale of pretrial conference is to promote efficient and effective disposition of litigation, and thus full participation in such conferences should be encouraged. Rules Civ.Proc., Rule 66; Fed.Rules Civ.Proc.Rule 16, 28 U.S.C.A.	What is the rationale of pretrial conference?	027030.docx	LEGALEASE-00130946- LEGALEASE-00130947
Atkins v. Atkins, 177 Cal. App. 2d 207	307A+750	Purpose of pretrial order is to make specific legal theories on which each party is proceeding and to crystallize and formulate issues to be litigated at trial; however, this does not mean that there must be unswerving and rigid adherence to every provision. Rules of Civil Procedure, rule 16(c).	What purpose do pre-trial orders serve?	Pretrial Procedure - Memo # 2022 - C - SKG.docx	ROSS-003301326-ROSS- 003301327
Silicon Valley Taxpayers Ass'n v. Santa Clara Cty. Open Space Auth., 44 Cal. 4th 431	371+2061	Unlike a special assessment, a tax can be levied without reference to peculiar benefits to particular individuals or property.	Is special assessment similar to tax?	044724.docx	LEGALEASE-00130853- LEGALEASE-00130854
Stevenson v. New York State Tax Appeals Tribunal, 106 A.D.3d 1146	371+2001	"Taxes" are public burdens imposed generally for governmental purposes benefiting the entire community.	Are taxes generally imposed for governmental purposes?	045269.docx	LEGALEASE-00130606- LEGALEASE-00130608
Unite Here Local 217 v. Sage Hosp. Res., 722 F. Supp. 2d 161	231H+1549(7)	Even if court rather than arbitrator were to determine length of neutrality agreement between hotel and union, underlying dispute over union's majority status among hotel employees might be arbitrable after agreement had expired; controversy had its real source in that agreement, which neither expressly nor by clear implication forbade postexpiration arbitration of issues that legitimately arose under contract during effective dates.	What is the two prong analysis which governs post-expiration arbitrability of disputes?	Alternative Dispute Resolution - Memo 565 - RK.docx	LEGALEASE-00021308- LEGALEASE-00021309
Jackson v. State Highway Dep't of Ga., 164 Ga. 434	34+3(2)	Posse Comitatus Act, which provides that "Whoever, except * * *, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined not more than \$10,000 or imprisoned not more than two years, or both," does not apply to United States Coast Guard. 18 U.S.C.A. S 1385; 14 U.S.C.A. SS 1-3, 89(a, b), 141(a); 10 U.S.C. S 101.	Does the Posse Comitatus Act apply to the members of the Coast Guard?	008954.docx	LEGALEASE-00132485- LEGALEASE-00132486
United States v. Pomrenke, 198 F. Supp. 3d 648	63+1(1)	To convict a defendant of bribery, the defendant must have engaged in a quid pro quo. 18 U.S.C.A. S 201(b).	Must quid pro quo be present for a bribery conviction?	012225.docx	LEGALEASE-00132014- LEGALEASE-00132016
United States v. O'Brien, 994 F. Supp. 2d 167	63+1(1)	Phrase "anything of value" in bribery statute is construed broadly, and includes intangible rights and benefits. 18 U.S.C.A. S 666.	"How should the phrase ""anything of value"" in the bribery statute be construed?"	Bribery - Memo #92 - C- CSS.docx	ROSS-003285795-ROSS- 003285796
Pritchard v. Sec. Tr. Co. of Rochester, 188 N.Y.S. 548	307A+331	The provisions of Code of Civil Procedure, SS 803 and 807, and of General Rules of Practice, Rule 14, relating to discovery, should not be construed away by technical construction.	"Should the provisions relating to discovery, be construed away by technical construction?"	027169.docx	LEGALEASE-00132067- LEGALEASE-00132068
Hampton Clinic v. Dist. Court of Franklin Cty., 231 Iowa 65	307A+331	The statutes providing for the production of books and papers are remedial and should be liberally construed. Code 1939, SS 11316, 11317.	"The statutes providing for the production of books and papers are remedial, should they be liberally construed?"	027483.docx	LEGALEASE-00132364- LEGALEASE-00132365
Shelter Mut. Ins. Co. v. Vulgamott, 96 S.W.3d 96	307A+517.1	Once a plaintiff voluntarily dismisses a claim prior to the introduction of evidence, it is as if the suit were never brought.	"Once a plaintiff files a voluntary dismissal of a claim, is it as if the claim had never been brought?"	Pretrial Procedure - Memo # 2199 - C - DA.docx	ROSS-003287418-ROSS- 003287419

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Whitmore v. Mut. Life Ins. Co. of N. Y., 122 Vt. 328	307A+749.1	Subsequent course of action in trial of a cause is controlled by agreement or admission made at pretrial conference. County Court Rules, rule 3A.	Is a subsequent course of action in trial of case controlled by agreement or admissions made at a pretrial conference?	Pretrial Procedure - Memo # 2517 - C-BP.docx	ROSS-003301549-ROSS-003301550
Dye, v. Missouri Dep't of Soc. Servs., 476 S.W.3d 359	307A+517.1	After a voluntary dismissal is filed, the circuit court may take no further steps as to the dismissed action, and any step attempted is viewed as a nullity. Mo. Sup. Ct. R. 67.02(a).	Does a voluntary dismissal without prejudice render that cause of action a nullity?	028090.docx	LEGALEASE-00132231-LEGALEASE-00132232
Schmeer v. Cty. of Los Angeles, 153 Cal. Rptr. 3d 352	371+2001	The term "tax" in ordinary usage refers to a compulsory payment made to the government or remitted to the government.	"What does the term ""tax"" in ordinary usage refer to?"	Taxation - Memo # 157 - C- NA.docx	ROSS-003304020-ROSS-003304021
Nw. Fire Dist. v. U.S. Home of Arizona Const. Co., 213 Ariz. 489	371+2001	Assessment imposed upon a broad class of parties is more likely to be a tax than an assessment imposed upon a narrow class.	Is an assessment imposed on a broad class more likely to be a tax?	044809.docx	LEGALEASE-00131522-LEGALEASE-00131523
Amalgamated Transit Union Local 587 v. State, 142 Wash. 27	371+2001	"Tax" is a pecuniary burden laid upon individuals or property to support the government, and is a payment exacted by legislative authority; essential characteristics of a tax are that it is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority.	What are the essential characteristics of a tax?	044818.docx	LEGALEASE-00131549-LEGALEASE-00131550
City of Carondelet, to Use of Reuter v. Picot, 38 Mo. 125	371+2001	A tax, in its essential characteristics, is not a debt, nor in the nature of a debt, but is an impost levied by the government on its citizens for the support of the state.	Is tax a debt in its essential characteristic?	044820.docx	LEGALEASE-00131551-LEGALEASE-00131552
Okeson v. City of Seattle, 150 Wash. 2d 540	371+2001	Generally speaking, taxes are imposed to raise money for the public treasury.	Are taxes generally imposed to raise money for the public treasury?	044827.docx	LEGALEASE-00131572-LEGALEASE-00131573
Griffin v. Dep't of Local Gov't Fin., 765 N.E.2d 716	371+2001	The nature of a tax must be determined by its operation and incidence, rather than by its title or designation made by the legislature.	Is it the manner of operation which determines the nature of a tax?	044908.docx	LEGALEASE-00131899-LEGALEASE-00131900
Menz v. Coyle, 117 N.W.2d 290	371+2001	A "tax" is an enforced contribution for public purposes which is in no way dependent upon will or consent of person taxed.	Is tax in any way dependent upon the will or contract of the person or entity taxed?	044944.docx	LEGALEASE-00132021-LEGALEASE-00132022
Swanson v. State, Dep't of Educ., 249 Neb. 466	371+2001	Tax laws represent legislature's definition of measure of every citizen's duty in support of public burdens.	What do tax laws represent?	044982.docx	LEGALEASE-00131947-LEGALEASE-00131948
State ex rel. & to Use of Moore v. Wabash R. Co., 357 Mo. 380	371+2001	Taxation, which is taking of private property for public use, requires strict compliance with law, and tax may be levied only when proceedings therefor are wholly within terms of statute authorizing it.	Does taxation require a strict compliance with law?	045092.docx	LEGALEASE-00132163-LEGALEASE-00132164
Clear Channel Outdoor v. Mayor & City Council of Baltimore, 153 F. Supp. 3d 865	371+2001	The "classic tax" is imposed by the legislature upon a large segment of society, and is spent to benefit the community at large.	"On whom is a ""classic tax"" imposed upon?"	045554.docx	LEGALEASE-00131909-LEGALEASE-00131910
Martin v. Indus. Comm'n, 75 Ariz. 403	413+3	Workmen's Compensation Law does not provide for general health and accident coverage, and therefore every accidental death of an employee is not compensable.	What types of acts are not compensable under workmens compensation laws?	047805.docx	LEGALEASE-00131717-LEGALEASE-00131718
Louisiana State Bar Ass'n v. Pitard, 462 So. 2d 178	63+1(1)	One essential element of public bribery is conscious knowing intent to influence person's conduct. LSA-R.S. 14:118.	Is intent an element of bribery?	011344.docx	LEGALEASE-00133346-LEGALEASE-00133347

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
People v. Jordan, 15 Ill. App. 3d 672	63+1(1)	A person's receipt of property is not alone enough to sustain a bribery conviction. S.H.A. ch. 38, S 33-1(d).	Is a persons receipt of property enough to sustain a bribery conviction?	011406.docx	LEGALEASE-00133218-LEGALEASE-00133219
United States v. Hyde, 448 F.2d 815	63+1(1)	Distinction between extortion by public official and acceptance of bribe is initiative and purpose on part of official and fear and lack of voluntariness on part of victim. 18 U.S.C.A. S 1951.	What is the distinction between extortion by public official and acceptance of bribe?	011430.docx	LEGALEASE-00133383-LEGALEASE-00133384
In re Decker, 10 B.R. 440	289+561	Where an assignment is not clearly intended to convey a partner's interest in specific partnership property, that is, his right to use partnership property for partnership purposes, but is intended to convey some interest in partnership property, the fact that the parties did not couch their assignment in proper terms does not justify a court's holding their transaction void when there exists evidence establishing basis upon which the transaction can be consistent and valid.	Can a partner assign his interest in specific partnership property to other partners?	022104.docx	LEGALEASE-00133505-LEGALEASE-00133506
Wozniak v. Miles, 2002 WL 31429805	46H+627	Attorney and law firm representing online music partnership in negotiations concerning its acquisition owed no duty to minority partner who, having been unaware that negotiations were underway, sold his partnership interest before the acquisition occurred; minority partner believed firm owed him duty of care individually, given the small size of the partnership, the nature and scope of the legal representation, and his having been unaware that acquisition was imminent, but neither the attorney nor the firm had ever had contact with him, professionally or otherwise. West's Ann.Cal.Corp. Code S 16201; Prof.Conduct Rule 3-600(A).	Does the duty of care owed by an attorney to the partnership extend to the individual partners?	Partnership - Memo 277 - RK.docx	LEGALEASE-00022553-LEGALEASE-00022554
U.S. v. Cohn, 128 F. 615	289+1331	A partner is not chargeable with criminal acts of his copartner or others, acting in behalf of the firm, unless he has knowledge thereof.	"If a partner possess guilty knowledge of the criminal acts of his copartner, can he be criminally liable?"	022135.docx	LEGALEASE-00133541-LEGALEASE-00133542
Brown v. Bateh, 331 So.2d 671	289+715	A partner has a right to protect his private property from the demands of partnership creditors, if there is partnership property that can satisfy the partnership debts. Rules of Civil Procedure, rule 65(d).	Can the private property of individual partners be used to pay off partnership debts?	Partnership - Memo 301 - RK.docx	ROSS-003290539-ROSS-003290540
Candelario Del Moral v. UBS Financial Services Inc. of Puerto Rico, 81 F.Supp.3d 143	253+753	Under Puerto Rico law, in absence of valid pre-nuptial agreement, legal conjugal partnership governs spouses' economic relationship during marriage.	Do conjugal partnerships end when the marriage is dissolved?	Partnership - Memo 303 - RK.docx	LEGALEASE-00022606-LEGALEASE-00022607
King v. Mississippi Power & Light Co., 244 Miss. 486	302+8(17)	It is not sufficient to allege negligence as mere conclusion of pleader, but facts must be pleaded showing actual negligence.	Is it sufficient to allege negligence as a mere conclusion?	022897.docx	LEGALEASE-00133352-LEGALEASE-00133353
Schowalter v. Washington Mut. Bank, 275 Ga. App. 182	307A+750	Claim or issue, though previously raised in pleadings, is waived when it is omitted from the pretrial order.	Is it a waiver if a claim or issue is omitted from the pretrial order even if it appeared in the complaint?	Pretrial Procedure - Memo # 1858 - C - SHB.docx	LEGALEASE-00022693-LEGALEASE-00022694
Ned v. Union Pac. Corp., 2014-1310 (La. App. 3 Cir. 4/15/15)	307A+747.1	A trial court has wide discretion to provide for pretrial orders and to ensure that the terms of the order are enforced. LSA-C.C.P. art. 1551.	Does a trial court have the discretion to enter a pretrial order?	Pretrial Procedure - Memo # 1863 - C - VA.docx	ROSS-003287283-ROSS-003287286

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Singer Mfg. Co. v. Bowne, 81 N.J. Eq. 157	307A+331	Wherever letters or papers are evidential in a cause and relevant, and are in the possession of either party, the court of equity has the inherent power to order the production of such papers for inspection by the other party.	Is the power to require a party to permit his opponent to inspect the documents in his possession inherent in the court?	027133.docx	LEGALEASE-00133200- LEGALEASE-00133202
Thurman v. James, 48 Mo. 235	307A+501	In practice, the words "discontinuance" and "dismissal" import the same thing-namely, that the cause is sent out of court.	"In practice, do the words ""discontinuance"" and ""dismissal"" import the same thing that the cause is sent out of court?"	027193.docx	LEGALEASE-00133004- LEGALEASE-00133005
Travelers Ins. Co. v. Joachim, 315 S.W.3d 860	307A+517.1	A nonsuit extinguishes a case or controversy from the moment the motion is filed or an oral motion is made in open court, and the only requirement is the mere filing of the motion with the clerk of the court. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	Does a nonsuit render the merits of a plaintiff's claims moot?	027695.docx	LEGALEASE-00132582- LEGALEASE-00132583
Bardales v. Duarte, 181 Cal. App. 4th 1262	307A+517.1	By definition, a voluntary dismissal without prejudice is not a final judgment on the merits.	Is a voluntary dismissal without prejudice a final judgment on the merits?	028072.docx	LEGALEASE-00133426- LEGALEASE-00133427
Estate of Barksdale ex rel. Farthing v. Duke Univ. Med. Ctr., 175 N.C. App. 102	307A+517.1	Voluntary dismissal of action leaves the plaintiff exactly where he was before the action was commenced. Rules Civ.Proc., Rule 41(a), West's N.C.G.S.A. S 1A-1.	Does a voluntary dismissal of action leave the plaintiff exactly where he was before the action was commenced?	028202.docx	LEGALEASE-00132775- LEGALEASE-00132776
Internorth v. Iowa State Bd. of Tax Review, 333 N.W.2d 471	371+2001	A "tax" is charge levied to pay cost of government; tax is not paid unless amount is transmitted to government, and does not accrue when it is neither charged nor owed.	Does a tax accrue when it is neither charged nor owed?	045001.docx	LEGALEASE-00133292- LEGALEASE-00133293
Savitt v. L. & F. Const. Co., 123 N.J.L. 149	413+1	Under the Workmen's Compensation Law, rights of parties are determined as of the date of the award and not as of the date of the accident. N.J.S.A. 34:15-12, 34:15-40.	When are the rights of the parties determined under the workmens compensation law?	047977.docx	LEGALEASE-00133466- LEGALEASE-00133467
Khalsa v. Weinberger, 779 F.2d 1393	34+3(1)	Mindes test for determining reviewability of military decision applies to statutory claims against military.	Does the Mindes test for determining reviewability of military decision apply to statutory claims against military?	008372.docx	LEGALEASE-00133686- LEGALEASE-00133687
Auto. Tire Serv. v. First Nat. Bank of Ariz., Phoenix, 102 Ariz. 512	8.30E+76	A "check" is merely the drawer's order to pay the named payee the amount specified and can be countermanded any time before payment or certification. A.R.S. SS 6-259, 44-589.	Can a check be countermanded?	010213.docx	LEGALEASE-00133590- LEGALEASE-00133591
United States v. Corrigan, 144 F.3d 763	92+2035	Military officials need not demonstrate actual harm before implementing a regulation restricting speech and may act to forestall reasonably anticipated harm to morale or to the orderly functioning of the base. U.S.C.A. Const.Amend. 1.	Do military officials demonstrate actual harm before implementing regulation restricting speech?	008386.docx	LEGALEASE-00133756- LEGALEASE-00133757
Munn v. Rateliff, 247 Ark. 609	200+79.6	It is existence of gate and not how continuously it is closed that constitutes notice to public that road is being used by permission and not as matter of right.	What constitutes as notice to the public that they are using the road as permission and not as right?	018920.docx	LEGALEASE-00133768- LEGALEASE-00133769
Maharishi Sch. Vedic Scis. v. Connecticut Constitution Assocs. Ltd. P'ship, 260 Conn. 598	308+99	"Apparent authority" is that semblance of authority that a principal, through its own acts or inadvertences, causes or allows third persons to believe the principal's agent possesses.	What is an apparent authority in a principal-agent relation?	Principal and Agent - Memo 84 - KC.docx	LEGALEASE-00023698- LEGALEASE-00023699
Jones v. State Bd. of Ed. Of & For State of Tenn., 279 F. Supp. 190	352H+157	Sexual battery is not a specific intent crime and thus the indictment need not refer to a specific intent.	Does the indictment of sexual battery require reference to specific intent?	Sex Offence - Memo 69 - SB.docx	ROSS-003291228-ROSS- 003291229
Nieves v. United States, 133 Fed. Cl. 306	34+5(3)	The constructive service doctrine only applies to improper terminations from active military service.	Does the constructive service doctrine apply only to improper terminations from active military service?	008446.docx	LEGALEASE-00134025- LEGALEASE-00134026

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Wright v. United States, 81 Fed. Cl. 369	34+5(3)	A servicemember cannot invoke the constructive service doctrine if he voluntarily retires from the military.	Can a service member invoke the constructive service doctrine if he voluntarily retired from the military?	008448.docx	LEGALEASE-00134070-LEGALEASE-00134071
Thomas v. United States, 42 Fed. Cl. 449	34+18.5	No one has a right to enlist or re-enlist in the armed forces unless specially granted such a right by statute or regulation.	Does a servicemen have the right to enlist or reenlist in the armed forces?	Armed Services - Memo 147 - JS.docx	ROSS-003303767-ROSS-003303768
Citizens' Tr. Co. v. Ward, 195 Mo. App. 223	83E+429	The indorsement of a note, "Pay to any bank or banker," is an indorsement for collection, and does not transfer title.	Does the indorsement pay to any bank or banker an indorsement for collection and do such indorsement transfer title?	Bills and Notes - Memo 281- VP.docx	ROSS-003291563-ROSS-003291564
Shain v. Sullivan, 106 Cal. 208	83E+405	An indorsement may be made upon the face of a note with the same effect as upon the back.	Does the indorsement made upon the face of the note has the same effect as if made upon the back?	009484.docx	LEGALEASE-00134582-LEGALEASE-00134584
United States v. Jacobs, 431 F.2d 754	63+1(1)	Statute against corruptly giving, offering, or promising anything of value to public official with intent to influence any official act or to influence official to commit fraud or make opportunity for commission of any fraud on United States or to induce such public official to do or omit to do any act in violation of his lawful duty seeks to prevent aftermath suffered by public when an official is corrupted and thereby perfidiously fails to perform his public service and duty, and purpose of statute is to discourage one from seeking an advantage by attempting to influence public official to depart from conduct deemed essential to public interest. 18 U.S.C.A. S 201(b).	What is the evil sought to be prevented by the deterrent effect of 18 U.S.C. 201(b) concerning bribery?	Bribery - Memo #318 - C-CSS.docx	ROSS-003290353-ROSS-003290354
State v. Com. v. Beneficial Fin. Co., 360 Mass. 188	63+14	Court's instructions as to Commonwealth's burden in establishing that person allegedly bribed was officer were proper.	Is the burden of proof on the Commonwealth in establishing the person allegedly bribed was an officer?	011476.docx	LEGALEASE-00134808-LEGALEASE-00134809
Tom Green Cty. v. Moody, 116 Tex. 299	200+121	Legislature has full discretion to adopt method of taxing all properties in county at assessed values for cost of highway to be improved within it.	What are the powers of Legislature with respect to taxation?	Highways -Memo 99 - DB.docx	ROSS-003290610-ROSS-003290611
Hozer v. State, Dep't of Treasury, Consol. Police & Firemen's Pension Fund Comm'n, 95 N.J. Super. 196	296+1	A "pension" is a bounty springing from appreciation and graciousness of the sovereign; it is an inducement to conscientious, efficient and honorable service.	Is pension an inducement to honorable service?	Pension - Memo 1 - MS.docx	ROSS-003317686-ROSS-003317687
Hozer v. State, Dep't of Treasury, Consol. Police & Firemen's Pension Fund Comm'n, 95 N.J. Super. 196	296+2	One fundamental purpose of the pensioning of civil servants is to secure good behavior and the maintenance of reasonable standards of discipline during service.	What is a pension?	Pension - Memo 8 - SB.docx	ROSS-003287643-ROSS-003287644
Polansky v. Berenji, 393 S.W.3d 362	307A+517.1	A nonsuit is effective when it is filed; it extinguishes a case or controversy from the moment the motion is filed or an oral motion is made in open court. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	Is a nonsuit effective upon the date of its filing?	Pretrial Procedure - Memo # 2719 - C - PC.docx	LEGALEASE-00024089-LEGALEASE-00024090
Farm Credit Bank of Omaha v. McLaughlin, 474 N.W.2d 883	307A+483	In applying rule governing deemed admissions, technical consideration should not be allowed to prevail to the detriment of substantial justice, and rule should be liberally construed. Rules Civ.Proc., Rule 36.	Is the rule allowing withdrawal of admissions to be construed liberally?	028928.docx	LEGALEASE-00134329-LEGALEASE-00134330

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Soliz v. State, 163 Tex. Crim. 508	110+507(7)	A prosecutrix in a statutory rape case is not an accomplice witness and a conviction for statutory rape can be sustained upon her uncorroborated testimony.	Can a prosecutrix become an accomplice in a rape case?	Sex Offence - Memo 47 - SB.docx	LEGALEASE-00024572-LEGALEASE-00024573
State v. Owen, 133 N.C. App. 543	352H+136	A person who is present, aiding and abetting in a rape actually perpetrated by another, is equally guilty with the actual perpetrator of the crime. G.S. S 14-27.2(a)(1).	Is aiding and abetting in a rape equally guilt as rape?	Sex Offence - Memo 49 - SB.docx	LEGALEASE-00024576-LEGALEASE-00024577
Com. v. Eastman Kodak Co., 385 Pa. 607	371+2001	While a statutory declaration as to the kind of tax imposed is entitled to weight, the nature of a tax depends upon its incidence, and not upon its label, and therefore, if a tax in its practical operation and effect is not what it purports to be, the realities control.	Do the realities control when a tax in its practical operation and effect is not what it purports to be?	045015.docx	LEGALEASE-00134493-LEGALEASE-00134494
Kaufman v. City of Tucson, 6 Ariz. App. 429	238+7(9)	Test of whether license tax is prohibitory is whether rates will annihilate whole business not just any given firm. A.R.S. S 4-223, subsecs. A, B.	Can tax be prohibitory if its purpose is to raise revenue?	Taxation - Memo # 351 - C - SU.docx	ROSS-003291234-ROSS-003291235
City of Columbus v. Atlanta Cigar Co., 111 Ga. App. 774	371+2001	Basic nature of tax must be determined by what it does and not by name given it by taxing authority.	Should the basic nature of tax be determined by what it does and not by name given to it by taxing authority?	045102.docx	LEGALEASE-00133938-LEGALEASE-00133939
U.S. Steel Corp. v. State, 65 Wash. 2d 385	371+2763	Tax is not a "debt" and does not bear interest unless specifically imposed by statute.	Does a tax bear interest unless specifically imposed by a statute?	045104.docx	LEGALEASE-00133942-LEGALEASE-00133943
City of Evanston v. N. Illinois Gas Co., 229 F. Supp. 3d 714	386+10	In Illinois, a "trespass" is an invasion in the exclusive possession and physical condition of land.	Is trespass an invasion in the exclusive possession and physical condition of land?	047360.docx	LEGALEASE-00134902-LEGALEASE-00134903
State ex rel. Green v. Gibson Circuit Court, 246 Ind. 446	386+11	An action for trespass quare clausum fregit (trespass to real estate) cannot be maintained for invasion of right-of-way or easement.	Can an action for trespass be maintained for an invasion of a right of way or easement?	047401.docx	LEGALEASE-00134804-LEGALEASE-00134805
Bloomington v. New York City Transit Auth., 13 N.Y.3d 61	386+11	The essence of trespass to real property is injury to the right of possession, and such trespass may occur under the surface of the ground.	Can trespass occur under the surface of the ground?	047405.docx	LEGALEASE-00134812-LEGALEASE-00134813
Swain v. Standard Acc. Ins. Co., 81 S.W.2d 258	413+1	Workmen's Compensation Act which provides for compensation to employee for injury resulting in his disability only, and to legal beneficiaries for injuries resulting in his death, creates two distinct remedies, although flowing from same accident or injury. Vernon's Ann.Civ.St. art. 8306 et seq.	To whom does the workmens compensation act provide compensation?	047985.docx	LEGALEASE-00134914-LEGALEASE-00134915
Harrington v. Dep't of Labor & Indus., 252 Mich. 87	413+1	Compensation for injuries is not private matter between employer and employee, but one wherein public is interested.	"Is the compensation for injuries a private matter between the employer and employee, or is the public interested?"	047993.docx	LEGALEASE-00134872-LEGALEASE-00134873
United States v. Wechsler, 392 F.2d 344	63+1(1)	Deposit in bank by member of zoning board of check allegedly received in payment for his vote on application for re-zoning was "use of facility in interstate or foreign commerce" within meaning of statute prohibiting use of such facility for unlawful activity. 18 U.S.C.A. S 1952.	Does depositing a check constitute the use of a facility in interstate or foreign commerce?	011491.docx	LEGALEASE-00135859-LEGALEASE-00135860
United States v. Gatling, 96 F.3d 1511	63+1(1)	Term "corruptly" in bribery statute requires that public official accept money with specific intent of performing official act in return. 18 U.S.C.A. S 201.	What does the term corruptly in bribery statute mean?	011518.docx	LEGALEASE-00135495-LEGALEASE-00135497

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Razete v. United States, 199 F.2d 44	63+1(1)	"Graft" means an advantage which one person by reason of his peculiar position of superiority, influence or trust, exacts from another, and also includes the fraudulent obtaining of public money by the corruption of public officials.	What is the meaning of the word graft?	011559.docx	LEGALEASE-00135326- LEGALEASE-00135327
People v. Dioguardi, 8 N.Y.2d 260	164T+8	Bribery of labor representative and extortion are mutually exclusive crimes, and essence of "bribery" is the voluntary giving of something of value to influence the performance of official duty, whereas the essence of "extortion" is duress. Penal Law, S 380 and subd. 2.	Are bribery and extortion mutually exclusive crimes?	011633.docx	LEGALEASE-00135975- LEGALEASE-00135977
Sarten v. State, 158 Ind. App. 516	67+2	The essential elements of "safe burglary" are breaking and entering of a building, with intent to commit a felony, and the taking of or an attempt to enter a safe. IC 1971, 35-1-61-1, Burns' Ind.St. Ann. S 10-702a.	What are the elements of burglary of a safe?	Burglary - Memo 117 - JS.docx	ROSS-003291597-ROSS- 003291599
Stotts v. State, 257 Ind. 8	67+2	Safe burglary statute was not rendered vague by failure to make ownership of safe and money or location of safe elements of offense, since requirement that taking be unlawful and with felonious intent indicates that owner must be other than accused and statute requires that entry into or carrying off of safe be in conjunction with breaking and entering. IC 1971, 35-1-61-1, Burns' Ann.St. S 10-702a.	What are the elements of burglary of a safe?	012642.docx	LEGALEASE-00135854- LEGALEASE-00135855
Fleck v. Cablevision VII, 763 F.Supp. 622	289+923	Under Iowa law, terms of partnership agreement governed both a dissolution of partnership, and a sale of partnership's assets to one of partners.	Is the partnership agreement relevant in governing dissolution of partnership?	022217.docx	LEGALEASE-00135124- LEGALEASE-00135125
Krug v. Meehan, 109 Cal. App. 2d 274	302+8(16)	A mere averment that instrument, such as deed, was procured by undue influence, is statement of conclusion of law.	Is the mere averment of undue influence a conclusion of law?	Pleading - Memo 308 - RMM.docx	ROSS-003290568-ROSS- 003290569
Logan v. S. Cal. Rapid Transit Dist., 136 Cal. App. 3d 116	302+193(5)	To withstand demurrer, complaint must allege ultimate facts, not evidentiary facts or conclusions of law.	Must a complaint allege evidentiary facts?	023299.docx	LEGALEASE-00135210- LEGALEASE-00135211
Hambleton v. Hartman, 160 Pa. Super. 447	302+8(16)	The facts which constitute alleged fraud, accident or mistake must be averred in order to rely thereon as a ground for relief.	Should facts constituting fraud be averred where it is set up as a ground of relief?	Pleading - Memo 316 - RMM.docx	ROSS-003302922-ROSS- 003302923
Rust v. Rust, 88 S.W.2d 787	302+8(16)	Facts relied on to show duress must be pleaded, and general allegation thereof is insufficient to present such issue.	Should facts relied on to show duress be pleaded?	023313.docx	LEGALEASE-00135455- LEGALEASE-00135456
Hyundai Motor Co. v. Alvarado, 892 S.W.2d 853	307A+517.1	While nonsuit by plaintiff may have effect of vitiating earlier interlocutory orders, decision on the merits such as summary judgment is not vitiated; such rule includes partial summary judgments. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	May a nonsuit have the effect of vitiating earlier interlocutory orders?	Pretrial Procedure - Memo # 2786 - C - MS.docx	LEGALEASE-00025121- LEGALEASE-00025122
Mayo v. New York Tel. Co., 175 A.D.2d 390	307A+716	Trial court abused its discretion by refusing to honor plaintiffs' counsel's affirmation of engagement in another court as valid ground for adjournment; there was no reason to believe that situation brought to Supreme Court's attention was not as counsel represented, merits of plaintiffs' action were sufficiently apparent, and none of the parties to the litigation would have been prejudiced had adjournment been granted.	Is engagement of counsel in another court been recognized as a valid ground for an adjournment?	Pretrial Procedure - Memo # 3358 - C - VP.docx	ROSS-003290890-ROSS- 003290891

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Cotton States Life Ins. Co. v. Edwards, 74 Ga. 220	307A+716	The continuance of cases on account of the absence of counsel is not favored, and such absence is no cause for postponement, unless in cases of necessity or misconception. Absence without leave, to attend trials of cases pending in other courts, is no ground for continuance.	Is the absence of counsel is cause of postponement?	029524.docx	LEGALEASE-00135675-LEGALEASE-00135676
Locklear v. Sellers, 126 So. 3d 978	307A+483	Admissions pursuant to discovery rule governing admissions, whether express or by default, are conclusive as to the matters admitted. Rules Civ.Proc., Rule 36.	"Are admissions, whether express or by default, conclusive as to the matters admitted?"	Pretrial Procedure - Memo # 3531 - C - SK.docx	ROSS-003290478-ROSS-003290479
Watson v. Geren, 483 F. Supp. 2d 226	34+5(4)	While late application for conscientious objector status may be the basis for suspicion as to petitioner's sincerity, this alone cannot provide a basis in fact for denial of petitioner's application.	Is a late application alone enough to justify the Army's rejection of an individuals application?	008489.docx	LEGALEASE-00137041-LEGALEASE-00137042
United States v. Smith, 196 F.3d 1034	63+1(1)	Government's grant of immunity to government witness and its agreement to notify relevant authorities of witness's cooperation did not amount to giving of something of value for testimony in violation of statute criminalizing bribery of witnesses. 18 U.S.C.A. S 201(c)(2).	Is government's promise of leniency to a cooperating witness amount to giving of something of value for testimony in violation of 18 U.S.C. 201(c)(2)?	Bribery - Memo #472 - C-JL.docx	ROSS-003303885-ROSS-003303886
People v. Harper, 75 N.Y.2d 313	63+1(1)	The gist of the crime of bribe receiving by a witness is not the payment of money, but the agreement or understanding under which the witness accepts or agrees to accept benefit, and thus crime is completed when the witness solicits, accepts or agrees to accept the benefit in exchange for a promise either that his testimony will be affected or that he will absent himself from or otherwise avoid appearing at the action or proceeding, regardless of whether the benefit is actually conferred. McKinney's Penal Law S 215.05.	What is the gist of the crime of bribery of witness?	011860.docx	LEGALEASE-00136024-LEGALEASE-00136025
Com. v. Ohle, 291 Pa. Super. 110	63+1(1)	Under section of Crimes Code proscribing bribery in official and political matters, once offer to confer proscribed benefit, or once agreement is made, crime is complete, and there need be no waiting for benefit actually to be conferred. 18 Pa.C.S.A. S 4701.	Can a defendant be charged with bribery before the benefit is actually conferred?	011877.docx	LEGALEASE-00136175-LEGALEASE-00136176
Morris v. Bloomgren, 127 Ohio St. 147	48A+171(4.1)	Vehicle approaching intersection from right has absolute right of way, qualified only by requirement that it must proceed in lawful manner. Gen.Code, SS 6310-28, 6310-28a (repealed 1941. See SS 6307-2, 6307-40).	Does the driver of motor vehicle approaching from the right have a right of way?	Highways -Memo 91 - GP.docx	LEGALEASE-00026025-LEGALEASE-00026026
Fulton v. Baxter, 596 P.2d 540	289+1009	Good faith is required when one partner is trying to oust another partner.	Is it necessary to observe good faith in a partnership when one partner is trying to oust and get rid of another?	022283.docx	LEGALEASE-00136405-LEGALEASE-00136406
Farrands v. Melanson, 438 A.2d 910	307A+483	Following a failure to answer a request for admissions, facts in the request are deemed admitted. Rules Civ.Proc., Rule 36.	Are the facts in a failure to answer a request for admissions deemed admitted?	Pretrial Procedure - Memo # 3946 - C - SB.docx	ROSS-003317943-ROSS-003317944
Verkin v. Sw. Ctr. One, Ltd., 784 S.W.2d 92	307A+723.1	There is no requirement that motion for continuance on grounds of discovery must be accompanied by request for discovery. Vernon's Ann.Texas Rules Civ.Proc., Rule 166a(f).	Should a motion for continuance on the grounds of discovery must be accompanied by a request for discovery?	030232.docx	LEGALEASE-00136430-LEGALEASE-00136431
Snider v. Cincinnati Car Co., 27 Ohio Dec. 212	307A+723.1	Where there is a right to continue a case the better method would be, instead of withdrawing a juror, to discharge the entire jury.	Would the better method be to discharge the entire jury where there is a right to continue a case?	Pretrial Procedure - Memo # 3981 - C - MS.docx	ROSS-003289911-ROSS-003289912

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State ex rel. Pfeiffer v. Taylor, 19 Wis. 566	307A+723.1	A circuit judge at chambers has power to make an order for a stay of proceedings under a previous order appointing a receiver, etc., made by the circuit court.	Does a circuit judge have power to make an order for a stay of proceedings?	030429.docx	LEGALEASE-00136183-LEGALEASE-00136184
Matter of Estate of Berth, 157 Wis. 2d 717	307A+91	Power to take depositions rests entirely upon statute, as power did not exist at common law.	Does the power to take depositions rest entirely upon statute?	Pretrial Procedure - Memo # 4437 - C - MS.docx	ROSS-003302143-ROSS-003302144
First Nat. Acceptance Co. v. Bishop, 187 S.W.3d 710	308+143(2)	An agent may make a contract for an undisclosed principal in his own name, and the latter may sue or be sued on the contract.	Can an agent acting on behalf of undisclosed principal sue on his own name?	Principal and Agent - Memo 96 - KC.docx	ROSS-003290918-ROSS-003290919
Comerford v. Pryor Foundry, 987 P.2d 434	371+2027	The primary consideration in considering tax statutes is that legislative intent be ascertained and given effect.	Is the pivotal question in ascertaining the tax statutes imposed by statute that concerning legislative intent?	Taxation - Memo # 468 - C - NA.docx	ROSS-003291816-ROSS-003291817
Shada v. Whitney, 172 Neb. 220	413+2	The Workmen's Compensation Act creates new remedies, new rights and new liabilities and manner in which it operates is to be found in legislation itself. R.R.S.1943, SS 48-173, 48-176, 48-178, 48-181.	Where are rights found under the workers compensation?	Workers Compensation - Memo #343 ANC.docx	ROSS-003290185-ROSS-003290186
Funai Elec. Co. v. Daewoo Elecs. Corp., 616 F.3d 1357	24+133	Courts are open to native and alien alike, when affected by a violation of United States law.	Are the courts of the United States open to aliens?	007011.docx	LEGALEASE-00137545-LEGALEASE-00137546
Corinth, Shiloh & Savannah Tpk. Co. v. Gooch, 113 Miss. 50	8.30E+76	A written order drawn by a company in favor of creditor for payment of money due company from another was a "bill of exchange" under the definition of Code 1906, S 4002.	What does the term bill of exchange encompasses?	Bills and Notes -Memo 211 -GP.docx	ROSS-003303509-ROSS-003303510
Carter Steel Supply & Fabrication v. Iowa Mut. Ins. Co., 174 N.W.2d 647	8.30E+76	If payment is stopped on check, check becomes promissory note due on demand and imports its own consideration. I.C.A. S 537.2.	Does a check becomes a promissory note on demand when payment is stopped?	Bills and Notes-Memo 120-DB.docx	ROSS-003289154-ROSS-003289155
People v. Ritholz, 359 Mich. 539	63+11	Corrupt intent is a necessary element in crime of bribery but it is not necessary that there be direct testimony as to intent required, and intent is to be gathered from the acts done and circumstances under which they were done.	Is it necessary that there be direct testimony as to the intent required in the bribery statute?	011791.docx	LEGALEASE-00137995-LEGALEASE-00137997
People v. Smith, 128 Misc. 2d 733	67+46(2)	In a crime such as burglary that requires a specific intent, it is essential that court give an instruction defining required concomitant intent. West's Ann.Pen.Code, S 459.	Does burglary require specific intent?	Burglary - Memo 163 - JS.docx	ROSS-003290453-ROSS-003290455
Glenn v. State, 659 S.W.2d 438	67+46(2)	Omission of essential element of culpable mental state from jury charge on burglary constituted fundamental error requiring reversal. V.T.C.A., Penal Code SS 6.02(b, c), 30.02(a)(3).	Is a culpable mental state required for burglary?	Burglary - Memo 98 - JS.docx	ROSS-003317587-ROSS-003317589
State ex rel. Rucker v. Feitz, 174 Mo. App. 456	200+158	The erection and maintenance of a post and wire fence upon a part of the public highway constituting an unlawful obstruction thereof was a public nuisance and should be abated.	Can the unlawful obstruction of a highway interfere with the rights of the public?	Highways -Memo 66-PR.docx	ROSS-003302824-ROSS-003302825
Withrow v. Withrow, 278 Ga. 525	307A+716	The absence of a party's counsel, without leave, to attend proceedings in other courts is no ground for continuance or postponement.	Will a postponement be allowed for absence of one of several counsels unless the opposite party consents?	030141.docx	LEGALEASE-00137367-LEGALEASE-00137368
Spaulding v. Hotchkiss, 62 N.Y.S.2d 151	307A+64	Examination of persons not parties to action before trial may not be availed of to annoy or harass adverse party or for purpose of fishing expedition. Civil Practice Act, S 307.	Will examinations before trial which are calculated to harass and annoy the opponents not be granted?	031011.docx	LEGALEASE-00137705-LEGALEASE-00137706

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Broome v. Perlman, 178 Misc. 873	307A+91	The practice of examining an adverse party before trial should not be hampered by technical requirements so long as the inquiry is directed to relevant issues. Civil Practice Act, S 288 et seq.	Is the privilege of examining defendants before trial permitted?	031013.docx	LEGALEASE-00137715- LEGALEASE-00137717
Memphis Pub. Co. v. City of Memphis, 871 S.W.2d 681	307A+186	Deposition is inherently public event, at least in sense that opposing party is present when testimony is taken and there is nothing, other than protective order, to prevent opposing party from disseminating information he or she learns at deposition; thus, discovery deposition does not carry with it requisite attribute of confidentiality needed to classify it as "attorney work product." Rules Civ.Proc., Rule 26.02(3).	Is a deposition an inherently public event?	031358.docx	LEGALEASE-00137464- LEGALEASE-00137465
Mercer v. Andersen, 715 N.W.2d 114	30+3208	District court has broad discretion to amend scheduling-order deadlines, and appellate courts review its decision for an abuse of discretion.	Does a court have discretion to amend scheduling-order deadlines?	031364.docx	LEGALEASE-00137592- LEGALEASE-00137593
Friday v. Mutz, 483 So. 2d 1269	307A+720	Generally, when amendment presents new claim or defense which takes opposing party by surprise, continuance must be allowed. LSA-C.C.P. art. 1151.	Does the fact that a complaint is amended in itself entitle the defendant to a continuance?	031372.docx	LEGALEASE-00137660- LEGALEASE-00137661
Echols v. Bridges, 235 S.E.2d 535	307A+747.1	Pretrial order should be liberally construed to allow consideration of all questions fairly within ambit of contested issues, and where question of precluding issues is raised, matter is within discretion of trial judge. Code, S 81A-116.	Should a pretrial order be construed liberally?	Pretrial Procedure - Memo # 4762 - C - SK.docx	ROSS-003317786-ROSS- 003317787
Brown v. Gage, 519 S.W.2d 190	307A+726	It is only on the first application for continuance that it is not necessary to show that the absent testimony cannot be procured from any other source; on all subsequent applications, this must be shown. Rules of Civil Procedure, rule 252.	Should it be shown on all subsequent applications for continuance that absent testimony cannot be procured?	031713.docx	LEGALEASE-00138075- LEGALEASE-00138076
Balandzich v. Demeroto, 10 Wash. App. 718	307A+726	Where action had been commenced in August 1967, plaintiffs had been represented by various counsel and six continuances had been granted, the last continuance was granted on July 29, 1971 to January 12, 1972, a date suggested by plaintiff husband, and, in granting continuance, court imposed condition that plaintiffs should have no more continuances for any reason, denial of a seventh sought by plaintiff was not unreasonable.	Can the court grant the last continuance by imposing a condition that plaintiff should have no more continuances for any reason?	Pretrial Procedure - Memo # 4933 - C - KBM.docx	ROSS-003291785-ROSS- 003291786
E. Bank Realty v. Robert, 411 So. 2d 500	308+103(1)	In a mandate, the power must be express and special when it relates to selling or buying property. LSA-C.C. art. 2997.	Should the mandate to buy or sell property be express and special?	042115.docx	LEGALEASE-00137816- LEGALEASE-00137817
Raniere v. Citigroup Inc., 827 F. Supp. 2d 294	25T+151	Although waiver of Fair Labor Standards Act (FLSA) collective action was unenforceable and therefore had to be severed, court could not order class arbitration where arbitration policy expressly provided that any claim brought on a class, collective, or representative action basis must be filed in a court of competence jurisdiction in the event waiver was found to be unenforceable. Fair Labor Standards Act of 1938, S 16(b), 29 U.S.C.A. S 216(b).	Is a waiver of Fair Labor Standards Act (FLSA) collective action enforceable?	Alternative Dispute Resolution - Memo 648 - SB.docx	ROSS-003300484-ROSS- 003300485
U.S. ex rel. Flannery v. Commanding Gen., Second Serv. Command, 69 F. Supp. 661	34+22(1)	An individual's military status is established by his contract of enlistment and is coterminous with such contract and is terminated by his unconditional discharge, and after termination of contract by performance and discharge, he has civilian status and no further contract relationship with the army.	Is an individuals military status established by enlistment?	008597.docx	LEGALEASE-00138679- LEGALEASE-00138680

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Admiral Ins. Co. v. Brinkcraft Dev., Ltd., 921 F.2d 591	8.30E+10	Designation in promissory note that law of New York would apply bore a sufficient "reasonable relation" to New York to constitute valid choice of law under Uniform Commercial Code; one of payee's general partners was a New York resident and the other was a Texas corporation with principal offices in New York, note and payee's limited partnership certificate both stated that New York was payee's principal place of business and payments on note were made in payee's principal offices in New York, as expressly required by note. V.T.C.A., Bus. & C. S 3.104.	Which law would govern the promissory note if there is no choice of law provision?	009403.docx	LEGALEASE-00138818- LEGALEASE-00138819
Dishman v. Hill, 578 N.E.2d 654	83E+909	In order for drawer of check who issues stop payment order to avoid statutory penalties in excess of amount of check, drawer must show "valid legal cause"; this means that drawer must successfully present recognized legal defense at trial instituted to collect on check. West's A.I.C. 28-2-8-1.	Can a payment on check be stopped when the drawer has a legal right?	010167.docx	LEGALEASE-00138238- LEGALEASE-00138239
Bank of New York Mellon v. Deane, 41 Misc. 3d 494	83E+417	Whatever the rights of a person to enforce an instrument by reason of delivery or assignment, a person is not a "holder" by reason of delivery or assignment alone, unless delivery is made of a bearer instrument.	Who is a holder of an instrument?	010332.docx	LEGALEASE-00138866- LEGALEASE-00138867
Teesdale v. City of Chicago, 792 F. Supp. 2d 978	129+110	Loudness, by itself, is not enough to constitute disorderly conduct under Illinois law; instead, surrounding circumstances must be considered. S.H.A. 720 ILCS 5/26-1(a)(1).	"Is loudness, by itself, enough to constitute disorderly conduct? "	Disorderly Conduct- Memo 38- PR.docx	LEGALEASE-00028078- LEGALEASE-00028079
Heard v. Rizzo, 281 F. Supp. 720	129+110	Loud, boisterous and unseemly noise or disturbance must all be present to constitute noise or disturbance prohibited by Pennsylvania disorderly conduct statute. 46 P.S.Pa. S 558, subd. 1.	What are the elements that constitute disorderly conduct?	Disorderly Conduct- Memo 43- PR.docx	ROSS-003290213-ROSS- 003290214
Biddle v. Martin, 992 F.2d 673	129+103	Whether particular conduct is disorderly depends not only on conduct itself but also on conduct's unreasonableness in relation to surrounding circumstances.	Whether unreasonableness of the conduct depends upon the conduct and the circumstances in which it occurs?	014420.docx	LEGALEASE-00138693- LEGALEASE-00138694
Summit Twp. Rd. Dist. v. Hayes Freight Lines, 44 Ill. App. 2d 274	200+182	Absolute statutory liability may be imposed against any person who damages a highway structure as result of illegal operation on highway. S.H.A. ch. 951/212, S 232.	Can a person be held liable for damages arising from an illegal operation upon a highway?	018981.docx	LEGALEASE-00138718- LEGALEASE-00138719
Watt v. W. Nuclear, 462 U.S. 36	260+2	Congress' purpose in severing surface estate from mineral estate in lands patented under Stock-Raising Homestead Act was to encourage concurrent development of both the surface and subsurface of those lands. Stock-Raising Homestead Act, S 9, 43 U.S.C.(1976 Ed.) S 299.	What was the Congress purpose in severing the surface estate from the mineral state?	021253.docx	LEGALEASE-00138374- LEGALEASE-00138375
Stoddart v. Garnhart, 35 Tex. 300	307A+723.1	Where a continuance is asked on account of the absence of a witness who lives in the county and has been subpoenaed, a continuance will be denied where the name of the witness is not shown.	"Where a continuance is asked on account of the absence of a witness who lives in the county, will a continuance be denied where the name of the witness is not shown?"	030861.docx	LEGALEASE-00138677- LEGALEASE-00138678
Flynn v. Royal Dev. Co., 54 N.Y.S.2d 585	307A+91	Where answer contains no affirmative defense and only general denials, defendant, in proper case, may examine plaintiff before trial.	Is a party entitled to examine the other party concerning allegations in the complaint or answer which the party must prove and which are controverted by a general denial?	031635.docx	LEGALEASE-00138482- LEGALEASE-00138483

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Douglas v. Burley, 134 So. 3d 692	307A+747.1	Compliance with the practice rule providing timelines for completion of discovery does not excuse a party's failure to adhere to a scheduling order. Uniform Circuit and County Court Rule 4.04(A).	Is a partys failure to adhere to a scheduling order excusable on other grounds?	031651.docx	LEGALEASE-00138649-LEGALEASE-00138650
Coffel v. Spradley, 495 S.W.2d 735	307A+69.1	Deponent's signature to his deposition goes to the form, rather than the substance, of the deposition and is not in all events indispensable. V.A.M.R. Civil Rule 57.22.	Is the deponent's signature to his deposition not in all events indispensable?	031703.docx	LEGALEASE-00138350-LEGALEASE-00138351
Bankers Mut. Ins. Co. v. Friedlander, 262 A.2d 606	307A+726	Where two continuances covering period of approximately a year had been granted in tenant's insurer's action to recover amount paid after fire, denial of third continuance to locate witness was not abuse of discretion.	Would the denial of defendants' third motion for continuance in suit be an abuse of discretion?	031748.docx	LEGALEASE-00138240-LEGALEASE-00138241
Holmes v. Crane, 167 N.Y.S. 735	307A+91	Where a fiduciary relation exists, the rules prescribed for the examination of a party before trial are relaxed.	"Where a fiduciary relation exists, are the rules prescribed for the examination of a party before trial relaxed?"	Pretrial Procedure - Memo # 5067 - C - SB.docx	ROSS-003291188-ROSS-003291189
Collier Servs. Corp. v. Salinas, 812 S.W.2d 372	307A+36.1	Terms of settlement agreement are properly discoverable to extent they are relevant. Vernon's Ann.Texas Rules Civ.Proc., Rule 166b, subd. 2, par. f(2).	Are the terms of a settlement agreement properly discoverable to the extent they are relevant?	032074.docx	LEGALEASE-00138486-LEGALEASE-00138487
Walley v. Gentry, 68 Mo. App. 298	307A+74	The certificate of a notary to depositions taken before him, "that in pursuance of the annexed notice" the witnesses named came before him and were severally sworn to testify the whole truth, etc., touching the matter in controversy, and that they were examined and their examination reduced to writing and subscribed by them, respectively, in his presence, on the day, between the hours, and at the place in that behalf as aforesaid, etc., is sufficient to show that the depositions were taken in conformity to the notice, and it was not necessary for the notary to state the manner of pursuing the notice as to time and place.	The certificate of a notary to depositions taken before him sufficient to show that the depositions were taken in conformity to the notice?	Pretrial Procedure - Memo # 5341 - C - KBM.docx	ROSS-003288794-ROSS-003288795
United States v. Prejean, 494 F.2d 495	67+15	Under Texas law, one cannot be convicted of burglary unless he entered the premises without the owner's consent; even if he commits theft once inside, if the owner consented to his entry, he cannot be convicted of burglary. Vernon's Ann.Tex.P.C. arts. 1389, 1391.	Does burglary require proof of entry without consent?	012825.docx	LEGALEASE-00139125-LEGALEASE-00139126
Myers v. United States, 17 F.3d 890	316P+934	Mine Safety and Health Administration (MSHA) inspectors could not be liable under Federal Tort Claims Act (FTCA) to survivors of coal miners killed in explosion for failure to monitor mine's compliance with safety regulations; Tennessee law providedno basis for finding that private individual under like circumstances would owe duty of care to miners or their survivors, and FTCA did not create private cause of action for government's breach of regulatory scheme. 28 U.S.C.A. SS 2671-2680; Federal Mine Safety and Health Act of 1977, S 2 et seq., 30 U.S.C.A. S 801 et seq.	Is there a private right of action under the mine safety act?	021637.docx	LEGALEASE-00139352-LEGALEASE-00139353
Weaver v. Jock, 717 S.W.2d 654	307A+508	Defendant's pleading did not constitute claim for affirmative relief because he was doing nothing more than resisting plaintiff's recovery for work performed; therefore, plaintiff had an absolute right to nonsuit. Vernon's Ann.Texas Rules Civ.Proc., Rule 164.	"If defendant is doing nothing more than resisting plaintiff's recovery, is a plaintiff's right to nonsuit absolute?"	Pretrial Procedure - Memo # 1145 - C - TJ.docx	ROSS-003301154-ROSS-003301155

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Blevins v. Blevins, 131 Misc. 315	307A+501	As a general rule, a party who commences an action may terminate the litigation, unless circumstances exist affording basis for exercise of legal discretion authorizing their denial, such an intervention of adverse party's substantial rights.	Can a party who commences an action terminate it and does the trial court have discretion to take the decision on the discontinuance of the action?	Pretrial Procedure - Memo # 1396 - C - SHB.docx	ROSS-003302753-ROSS-003302754
In re Ashcroft, 888 F.2d 546	307A+742.1	Pretrial conference discussion of settlement is designed to encourage and facilitate settlement as early as possible, but is not designed to impose settlement on unwilling litigants. Fed.Rules Civ.Proc.Rule 16 note, 28 U.S.C.A.	What is pretrial conference discussion of a settlement designed to do?	Pretrial Procedure - Memo # 1399 - C - SHB.docx	ROSS-003289070-ROSS-003289071
White v. Ballon, 149 N.Y.S.2d 82	307A+91	Examinations of defendants by plaintiffs prior to trial are favored by the courts and are not to be thwarted on technicalities, and it is within their power themselves to define the scope where an examination is warranted. Civil Practice Act, S 296.	Are examinations of defendants by plaintiffs prior to trial favored by the courts and are not to be thwarted on technicalities?	030972.docx	LEGALEASE-00139169-LEGALEASE-00139170
DuBois v. Workers' Comp. Appeals Bd., 5 Cal. 4th 382	413+2	Right to workers' compensation benefits is wholly statutory and is not derived from common law. West's Ann.Cal. Const. Art. 14, S 4.	Is the right to benefits from workers compensation entirely or wholly statutory?	Workers Compensation - Memo #296 ANC.docx	LEGALEASE-00029154-LEGALEASE-00029155
Richardson v. United States, 38 Ct. Cl. 182	34+13.1(13)	Act March 3, 1899, c. 413, S 13, 30 Stat. 1007, 34 U.S.C.A. S 1158a, provides that commissioned officers of the line of the navy and of the medical and pay corps shall receive the same pay and allowances, except forage, as may be provided by law for officers of corresponding rank in the army. Rev.St. S 1261, 10 U.S.C.A. S 692, provides that officers of the army shall be entitled to the pay therein stated after their respective designations, and designates first and second lieutenants mounted and not mounted; and section 1168 provides that the medical department of the army shall consist of a surgeon general, with rank of brigadier general, and assistant surgeons, with the rank of lieutenant of the cavalry for the first three years of the service, and the rank of captain of cavalry after three years' service. Held, that an assistant surgeon in the navy, with rank of lieutenant, was entitled to the mounted pay given to a lieutenant in the army, as mounted pay is not an allowance, but a part of the officer's pay proper, and the officer to whom it is assigned by statute receives it, whether or not he is actually mounted.	What is the primary objective of the Navy Personnel Act?	008588.docx	LEGALEASE-00139520-LEGALEASE-00139521
Ulve v. City of Raymond, 51 Wash. 2d 241	388+243	In action against city for wrongful death of decedent who was driving automobile which went off dock into river, instruction that one driving through fog must exercise a very high degree of care was prejudicially erroneous in that it conflicted with subsequent instruction which contained correct rule and was confusing to jury.	What is the degree of care to be exercised while driving through dust?	019019.docx	LEGALEASE-00139530-LEGALEASE-00139531
Dixon v. Koplar, 102 F.2d 295	289+530	There is no individual ownership of partnership property until partnership has ceased activity and its debts have been paid.	Can a partner claim individual ownership of partnership property only after the partnership has ceased and the debts are paid off?	022315.docx	LEGALEASE-00139566-LEGALEASE-00139567

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L. Fullam & Co. v. Abrahams & Epstine, 29 Kan. 725	289+723	The general rule that the property of an individual partner is to be first applied to his individual debts, before it can be resorted to by partnership creditors, does not apply as against partnership creditors who have obtained a prior lien on the property of an individual partner by garnishment or other appropriate judicial proceedings.	Will the property of the individual partners be first applied to the payment of the debts of the individual partners before it is applied to the partnership debts?	022362.docx	LEGALEASE-00139459- LEGALEASE-00139460
Gray v. City of Opelika, 216 So. 3d 431	307A+682.1	Evidentiary matters may be freely submitted on a motion to dismiss that attacks jurisdiction. Rules Civ.Proc., Rule 12.	Can a party submit evidentiary matters to support a motion to dismiss that attacks venue?	Pretrial Procedure - Memo # 5600 - C - SK.docx	ROSS-003288896-ROSS-003288897
Shinyu Noro v. United States, 148 F.2d 696	24+136	In a civil court trying an alien enemy for a crime committed in peacetime, constitutional safeguards of accused must be maintained, notwithstanding that it may be true that accused, by executive power, may be summarily arrested and interned and his property sequestered.	Are constitutional safeguards available to an alien enemy under criminal prosecution?	006917.docx	LEGALEASE-00140445- LEGALEASE-00140446
Willard v. Moies, 30 Mo. 142	83E+481	The holder of a negotiable promissory note may sue thereon without any written assignment thereof.	Can the holder of a negotiable promissory note sue without a written assignment?	009521.docx	LEGALEASE-00140613- LEGALEASE-00140614
Ramot v. Schotenfels, 15 Iowa 457	8.30E+266	After the maturity of a promissory note the parties made and indorsed thereon the following agreement: "Renewed for an indefinite time at ten dollars interest per month, and the whole amount then to pay when both parties may agree." Held, that the agreement could not be construed as a covenant never to sue, but was a renewal without fixing a definite time of payment; and that the note became due and payable at its date, or at least within a reasonable time thereafter.	When is the note payable when no time is fixed for payment?	009540.docx	LEGALEASE-00140676- LEGALEASE-00140677
Liberty Nat. Bank & Tr. Co. v. Dvorak, 199 N.W.2d 414	8.30E+266	A note is "renewed" when a new note evidencing same obligation is executed and delivered by maker to holder of old note.	Is there renewal of a note when there is a new note evidencing the same obligation?	009542.docx	LEGALEASE-00140680- LEGALEASE-00140681
Gross v. Lamme, 77 Nev. 200	83E+578	Lack or failure of consideration is not available to maker as defense against holder in due course, or holder's assignee. N.R.S. 92.002, 92.033, 92.035, 92.041, 92.065.	Is lack of consideration a defense against a holder in due course?	010316.docx	LEGALEASE-00140003- LEGALEASE-00140004
Williams v. Alphonse Mortg. Co., 144 So. 2d 600	83E+481	Note payable to order of maker and endorsed by her was payable to bearer and transferable by assignment.	"Does a note payable to order of maker and endorsed by her, payable to bearer and transferable by assignment or delivery?"	010352.docx	LEGALEASE-00140245- LEGALEASE-00140246
Suhr v. Felter, 589 So.2d 583	48A+12	Broken down vehicle awaiting repair was legally parked on highway shoulder where vehicle did not obstruct flow of traffic, was not hazard to public safety, and was not in area designated as no parking area. LSA-R.S. 32:2, 32:143, 32:144, subd. B, 32:296, 48:342.	Under what circumstances are parking of a vehicle on the shoulder of the highway proscribed?	018694.docx	LEGALEASE-00139811- LEGALEASE-00139812
In re Opinion of the Justices, 133 Me. 525	296+1	By direct provision of Const. pt. 1, art. 36, pensions are not to be granted, except in consideration of actual services, and never for more than one year at a time; a "pension" ordinarily suggesting the idea of a bounty or reward for services rendered.	Can a pension be granted for more than one year at a time?	Pension - Memo 14 - SB.docx	ROSS-003289017
Hammitt v. Gaynor, 144 N.Y.S. 123	92+4170	The use of a public revenue to pay pensions is not a taking of the property of the taxpayers without due process of law.	Is the use of public revenue to pay a pension constitutional?	022764.docx	LEGALEASE-00140502- LEGALEASE-00140503

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Jones v. Cheney, 253 Ark. 926	92+2632	Technically, pension constitutes mere gratuity subject to modification or repeal as opposed to vested right not subject to such impairment.	Is pension a mere gratuity?	Pension - Memo 18 - SB.docx	ROSS-003289225
Jack Doe 1 v. Lake Oswego Sch. Dist., 242 Or. App. 605	302+9	Complaint must allege ultimate facts from which the required conclusions are inferable, not a mere possibility, and an inferable conclusion is more than a suspicion, a suggestion, a speculation, or a conjecture.	Must a complaint allege ultimate facts?	023419.docx	LEGALEASE-00139983- LEGALEASE-00139984
Boyles v. Kerr, 855 S.W.2d 593	302+34(3)	In absence of special exceptions, petition should be construed liberally in favor of pleader; court should uphold petition as to cause of action that may be reasonably inferred from what is specifically stated, even if element of cause of action is not specifically alleged.	"Should pleadings be construed liberally in favor of the pleader, in the absence of special exceptions?"	Pleading - Memo 380 - RMM.docx	ROSS-003291168-ROSS-003291169
Standard Acc. Ins. Co. v. Pellecchia, 104 A.2d 288	366+1	Although subrogation is of equitable origin and is enforced on equitable principles, recovery is generally sought at law, but right of subrogation will not be recognized at law unless the right of action made the subject thereof is legal in its nature, and is cognizable at law.	Can parties waive or limit a right of subrogation by agreement?	Subrogation - Memo # 1261 - C - SJ.docx	ROSS-003303618-ROSS-003303619
Internorth v. Iowa State Bd. of Tax Review, 333 N.W.2d 471	371+2001	A "tax" is charge levied to pay cost of government; tax is not paid unless amount is transmitted to government, and does not accrue when it is neither charged nor owed.	Is a tax considered as paid if the amount is transmitted to government?	Taxation - Memo # 251 - C - NA.docx	ROSS-003289661
United States v. Peskin, 527 F.2d 71	63+14	In Travel Act prosecution of attorney for allegedly bribing village officials for favorable zoning action, trial court properly instructed jury that unless alleged extortion of payments by village officials in return for fair zoning decision was so overpowering as to negate criminal intent of wilfulness, it was not total defense to bribery charges. 18 U.S.C.A. S 1952.	Can extortion be a total defense to bribery charges?	011442.docx	LEGALEASE-00141997- LEGALEASE-00141998
United States v. Buenrostro, 781 F.3d 864	63+1(1)	The \$5,000 element of federal bribery statute pertains to subject matter of bribe, which must be valued at \$5,000 or more; in other words, the business or transaction sought to be influenced must have a value of \$5,000 or more. 18 U.S.C.A. S 666(a)(2).	"Is it the subject matter of the bribe that must be valued at \$5,000 or more?"	Bribery - Memo #634 - C-CSS.docx	ROSS-003290903-ROSS-003290904
State v. Woelfel, 621 N.W.2d 767	63+2	As criminal statute, law prohibiting bribery by public officer or public employee, had to be construed in favor of defendant and against state. M.S.A. SS 609.42, subd. 1(2), 609.415.	"Where the statute prohibiting bribery by a public officer or public employee is unclear, which side should it be construed in favor of?"	011965.docx	LEGALEASE-00141626- LEGALEASE-00141627
United States v. Bigler, 907 F. Supp. 401	63+2	Congress' power to provide for general welfare in conjunction with necessary and proper clause gives Congress power to enact statute which makes it federal offense to corruptly give anything of value to any person, with intent to influence or reward agent of local government. U.S.C.A. Const. Art. 1, S 8, cl. 18; 18 U.S.C.A. S 666(a)(2).	What is the source of Congresss power to enact bribery statute?	011967.docx	LEGALEASE-00141079- LEGALEASE-00141080
Pankey v. Atchison, T. & S.F. Ry. Co., 180 Mo. App. 185	113+3	To make a custom effective, it must be general, uniform, certain and notorious, and known to the parties, or so general and universal that knowledge must be presumed.	Under what circumstances will a custom be effective?	014169.docx	LEGALEASE-00141823- LEGALEASE-00141824
Pankey v. Atchison, T. & S.F. Ry. Co., 180 Mo. App. 185	113+3	To make a custom effective, it must be general, uniform, certain and notorious, and known to the parties, or so general and universal that knowledge must be presumed.	When will a custom be effective?	014171.docx	LEGALEASE-00141825- LEGALEASE-00141826

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Strong v. Grand Trunk R. Co., 15 Mich. 206	113+3	Before any custom can be admitted into the law, it must appear that it has been general, and uniformly and peaceably acquiesced in, and not subject to contention and dispute.	Does a customs usage have to be general and established to be admitted into the law?	014210.docx	LEGALEASE-00141902- LEGALEASE-00141903
Caffroy v. Fremlin, 198 Cal. App. 2d 176	260+47	Landowner does not have absolute title to oil and gas in place as corporeal realty but has exclusive right to drill for oil and gas upon his premises.	Does the owner of land have the exclusive right on his land to drill for1 and produce oil?	021168.docx	LEGALEASE-00140947- LEGALEASE-00140948
Salzseider v. Brunsdale, 94 N.W.2d 502	361+1091	In construing a statute, consideration must be given to ordinary sense of words used, their context, and purpose sought to be accomplished.	"Can the court construe the word ""minerals"" according to the classifications of animal, vegetable or mineral or according to the classifications of organic and inorganic substances?"	021204.docx	LEGALEASE-00141927- LEGALEASE-00141929
Hufo Oils v. R.R. Comm'n of Texas, 717 S.W.2d 405	260+92.54	Under statute defining petroleum products for purposes of well-classification, natural gasoline is not "crude petroleum oil." V.T.C.A., Natural Resources Code S 86.002.	For the purposes of well-classification is natural gasoline crude petroleum oil?	021286.docx	LEGALEASE-00141519- LEGALEASE-00141520
Appeal of Slemmer, 58 Pa. 168	289+927	A partner may at any time withdraw and cause a technical dissolution of the firm, subject to liability, to his co-partners if the act is wrongful.	Can a partner withdraw from the partnership at any time?	022399.docx	LEGALEASE-00141904- LEGALEASE-00141905
Price v. Hunt, 59 Mo. 258	289+663	One member of a firm cannot appropriate its property or assets, without the consent of his copartners, to the payment of his individual debts.	Is mutual consent of all the partners required in a partnership to appropriate the partnership effects for the payment of an individual partners debt?	022404.docx	LEGALEASE-00141945- LEGALEASE-00141946
Anserv Ins. Servs. v. Albrecht In & For Cty. of Maricopa, 192 Ariz. 48	302+11	Because Arizona is a notice pleading state, extensive factual recitations are not required in complaint. 16 A.R.S. Rules Civ.Proc., Rule 8.	Are extensive factual recitations required in a notice pleading state?	Pleading - Memo 395 - RMM.docx	ROSS-003289048-ROSS- 003289049
Pepper v. Bentley, 59 So. 3d 684	307A+726	Trial court did not exceed its authority by setting a second trial date, after an initial grant of continuance, that left fewer than 60 days before start of trial; neither party objected to the second trial setting, thereby agreeing to the date set, parties had notice and opportunity to be heard, and no further continuances were requested. Rules Civ.Proc., Rule 40(a).	Will the court exceed its authority by setting a second trial date after an initial grant of continuance?	031324.docx	LEGALEASE-00140768- LEGALEASE-00140769
Burrill v. Watertown Bank & Loan Co., 51 Barb. 105	307A+74	Mere formal defects in the return of a commission for the examination of witnesses will not be regarded on the trial.	Will mere formal defects in the return of a commission for the examination of witnesses not be regarded on the trial?	032543.docx	LEGALEASE-00141963- LEGALEASE-00141964
Thorpe v. Gelbwaks, 953 So. 2d 606	307A+554	A defendant contesting personal jurisdiction must file a motion to dismiss.	Can a defendant contesting personal jurisdiction file a motion to dismiss?	Pretrial Procedure - Memo # 6017 - C - SKG.docx	ROSS-003289735-ROSS- 003289736
S. Serv. Co. v. Los Angeles Cty., 15 Cal. 2d 1	371+2001	The general relationship of sovereign and taxpayer is not founded on nor does it create any contractual rights.	Is the general relationship of sovereign and taxpayer founded on any contractual rights?	Taxation - Memo # 426 - C - SU.docx	ROSS-003288787-ROSS- 003288788
S. Serv. Co. v. Los Angeles Cty., 15 Cal. 2d 1	371+2001	The general relationship of sovereign and taxpayer is not founded on nor does it create any contractual rights.	Does the general relationship of sovereign and taxpayer create any contractual rights?	045189.docx	LEGALEASE-00141154- LEGALEASE-00141155
Witzenburger v. State ex rel. Wyoming Cmty. Dev. Auth., 575 P.2d 1100	268+956(1)	Taxing power of State is practically without limit, but political subdivisions' taxing power is limited to those powers authorized by the legislature.	Is the political subdivisions' taxing power limited to those powers authorized by the legislature?	045358.docx	LEGALEASE-00141320- LEGALEASE-00141321
Helvey v. Sax, 38 Cal. 2d 21	371+2003	The state's taxing power is derived, from its sovereign authority, and not from any grant to it by the owner of the property.	Is a state's power to tax derived from its sovereign authority?	045360.docx	LEGALEASE-00141338- LEGALEASE-00141339

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Cont'l Motors Corp. v. Muskegon Twp., 365 Mich. 191	371+2005	The Constitution authorizes only two general methods of taxation, ad valorem and specific. Const. art. 10, S 3.	Are ad valorem and specific the only two general methods of taxation?	045530.docx	LEGALEASE-00141795-LEGALEASE-00141796
Casey v. Richland Cty. Council, 282 S.C. 387	371+2060	"Taxes" are imposed on all property for maintenance of government, as opposed to assessments which are placed only on property to be benefited by proposed improvements.	"Are ""taxes"" imposed on all property for maintenance of government?"	045553.docx	LEGALEASE-00142011-LEGALEASE-00142012
Vill. of Lombard v. Illinois Bell Tel. Co., 405 Ill. 209	371+2160	"Excise taxes," such as occupational license, privilege and franchise taxes, are charges for privilege arising from use of property, while "property taxes" are taxes directly on property itself.	"Are ""excise taxes"" charges for privilege arising from use of property?"	045598.docx	LEGALEASE-00141651-LEGALEASE-00141652
Lee v. Grandcor Med. Sys., 702 F. Supp. 252	25T+182(2)	Buyers of hospital did not waive any rights they might have under arbitration clause in transfer agreement by petitioning for removal, filing answer, and requesting jury trial, in action asserting state law claims against buyers for breach of contract, fraudulent inducement, and tortious interference with business relations; plaintiffs did not allege or demonstrate any material prejudice as a result of delay caused by buyers' conduct.	Can a general arbitration clause cover a claim that the plaintiff was fraudulently induced to enter into the underlying agreement?	Alternative Dispute Resolution - Memo 595 - RK.docx	ROSS-003290702-ROSS-003290703
Recognition Equip. v. NCR Corp., 532 F. Supp. 271	170A+1264	Seller, which alleged that it provided buyer with goods and related parts but received payment from buyer erroneously based upon wrong price list, was not entitled to discovery pending arbitration of parties' dispute, as discovery under the Federal Rules of Civil Procedure pending arbitration would not further purposes of arbitration under the Federal Arbitration Act of facilitating and expediting resolution of disputes. 9 U.S.C.A. S 3.	Is providing disputants with a less costly alternative to litigation a purpose of the Federal Arbitration Act?	007488.docx	LEGALEASE-00143105-LEGALEASE-00143106
In re Marriage of Dorsey, 2014 COA 19, 15, 342 P.3d 491	25T+135	Separation agreement's forum selection clause, which stated that certain state court had exclusive and continuing jurisdiction over matters relating to interpretation and enforcement of agreement, did not preclude arbitration pursuant to agreement's arbitration clause regarding post-marital dissolution dispute as to amount of final property division payment; there was no indication that parties intended for forum selection clause to supersede or revoke arbitration clause, and arbitration clause would have essentially been rendered meaningless if forum selection clause exempted any issue involving interpretation of agreement from arbitration.	Can an arbitration clause be nullified by a forum selection clause?	007490.docx	LEGALEASE-00143146-LEGALEASE-00143147
Sanford v. H.A.S., 136 F. Supp. 2d 1215	25T+145	Under Alabama law, arbitration agreement between car buyer and seller, which was signed by the buyer on May 4, did not apply to a purchase transaction on May 9, even though the May 4 agreement purported to apply to "all disputes between (the parties) concerning the vehicle," and the buyer purchased the same vehicle on May 9 that was the subject of the May 4 agreement; what was contemplated on May 4 was the May 4 sale, and under the parol evidence rule, the subsequent agreement discharged the prior one, regardless of when the subsequent agreement was made, and the documents signed on May 9 became the fully integrated understanding between the parties when they were signed.	Can parties create an exception to the parol evidence rule through their arbitration agreements?	007501.docx	LEGALEASE-00143161-LEGALEASE-00143162

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In re Cotton Yarn Antitrust Litig., 2005 WL 3274372	25T+134(1)	Under North Carolina law, arbitration of disputes was well-established custom in textile industry, and thus arbitration was automatically part of agreements reached between yarn manufacturers and purchasers, even though parties' oral agreements did not provide for arbitration, and purchasers contended that they were unaware that arbitration was standard practice, where "Yarn Rules" incorporated in sales contracts and confirmations indicated that arbitration of disputes was standard practice, and numerous cases noted that arbitration of disputes was standard in textile industry. West's N.C.G.S.A. SS 25-1-201(b)(3), 25-1-303(c), 25-2-207(2)(b).	Will the widespread use of arbitration clauses in an industry put a contracting party on notice that its agreement contains an arbitration clause?	007503.docx	LEGALEASE-00143163-LEGALEASE-00143165
United States v. Smith, 124 F. Supp. 406	34+20.1(1)	Congress has constitutional power to compel conscientious objectors to perform military service.	Does Congress have the power to compel a conscientious objector to perform military duties?	008613.docx	LEGALEASE-00142160-LEGALEASE-00142161
Lancaster v. State, 21 Ala. App. 140	34+36	Fact of defendant's being a soldier does not exempt him from crime or change rules of evidence.	Does the fact that the defendant is a soldier exempt him from a crime or change the rules of evidence?	008625.docx	LEGALEASE-00142227-LEGALEASE-00142228
Brown v. Patella, 24 Cal. App. 2d 362	83E+481	In action on note assigned to plaintiff, it was not necessary that plaintiff prove any consideration passing from him to his assignor for assignment, especially where evidence showed that assignment was made for collection.	Is it necessary to prove consideration for an assignment?	Bills and Notes - Memo 506 - RK.docx	ROSS-003304301
Allen v. Commercial Credit Co., 155 Ga. 545	83E+481	Assignment in writing of note payable to named person or order need not be indorsed thereon or attached thereto to pass the legal title.	Is it necessary to endorse an assignment in writing to pass legal title to the holder?	Bills and Notes - Memo 572 - RK.docx	ROSS-003288060-ROSS-003288061
United States v. Leyva, 282 F.3d 623	63+1(1)	Use of an official position was not an element of bribery offense; plain language of statute required only that the public official accept a thing of value in exchange for perpetrating a fraud, and absence of any official act requirement was particularly pointed in light of explicit "official act" or "official duty" language in other subsections of statute. 18 U.S.C.A. S 201(b)(2)(B).	Is the use of an official position an element of the bribery statute?	011561.docx	LEGALEASE-00142455-LEGALEASE-00142456
United States v. Synowiec, 333 F.3d 786	63+1(1)	Statute prohibiting bribery of a public official is satisfied if a defendant expresses an ability and a desire to pay the bribe. 18 U.S.C.A. S 201(b).	Is the crime of offering a bribe complete when a defendant expresses an ability and a desire to pay the bribe?	011612.docx	LEGALEASE-00142812-LEGALEASE-00142813
State v. Badaracco, 156 Conn. App. 65	63+1(1)	Under federal law, a bribery conviction must be based on more than evidence of mere preparation; it must progress to the point that the defendant made an offer that consisted of an expression of a desire and an ability to pay the public official for performing a proscribed act. 18 U.S.C.A. S 201(b).	"Under bribery statute, can a bribery conviction be based on evidence of mere preparation?"	012163.docx	LEGALEASE-00142354-LEGALEASE-00142355
Louisiana Sav. Ass'n v. Trahan, 415 So. 2d 592	113+8	Neither custom nor usage nor practice may prevent enforcement of an express statutory provision. LSA-C.C. art. 3.	"May custom, usage, or practice prevent enforcement of an express statutory provision?"	014254.docx	LEGALEASE-00142816-LEGALEASE-00142817
Berk v. Sherman, 682 A.2d 209	289+950	Under Maryland law, after dissolution, partner can bind partnership by any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution. Md.Code, Corporations and Associations, S 9-604.	"After dissolution, can the partners bind the partnership?"	Partnership - Memo 402 - JS.docx	ROSS-003289185-ROSS-003289186
Stubbs v. Fleming, 92 Ga. 354	307A+74	A direct interrogatory, added, without notice to the other party, after the interrogatories were crossed, should be disregarded.	"Should a direct interrogatory, added, without notice to the other party, be disregarded?"	Pretrial Procedure - Memo # 5412 - C - PB.docx	ROSS-003288819

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Steiner Transocean Ltd. v. Efremova, 109 So. 3d 871	307A+681	As a general rule, when considering a motion to dismiss, a trial court is limited to the allegations within the four corners of the complaint and any attachments.	"When considering a motion to dismiss, is a trial court permitted to consider evidence outside the four corners of the complaint?"	Pretrial Procedure - Memo # 6275 - C - KG.docx	ROSS-003289832-ROSS-003289833
M.L. v. Eskenazi Health / Midtown Mental Health CMHC, 80 N.E.3d 219	13+6	When a court is unable to render effective relief to a party, the case is deemed moot and usually dismissed.	Will a case that is rendered moot be dismissed?	Pretrial Procedure - Memo # 6680 - C - SK.docx	ROSS-003289317-ROSS-003289318
Merhish v. H. A. Folsom & Assocs., 646 P.2d 731	307A+552	Once a controversy has become moot, a trial court should enter an order of dismissal.	Should a trial enter an order of dismissal once a controversy has become moot?	Pretrial Procedure - Memo # 6681 - C - SKG.docx	ROSS-003289801-ROSS-003289802
State v. W.R., Jr., 181 Wash. 2d 757	352H+191	Once a defendant asserts a consent defense to a charge for rape involving forcible compulsion and provides sufficient evidence to support the defense, the State bears the burden of proving lack of consent as part of its proof of the element of forcible compulsion. West's RCWA 9A.44.050(1)(a).	Does the State have the burden of proof in rape cases involving questions of consent?	Sex Offence - Memo 81 - RK.docx	LEGALEASE-00033062-LEGALEASE-00033063
Sizemore v. State, 10 Md. App. 682	352H+184	A jury may infer penetration from the physical condition of the victim soon after the incident.	Can a jury infer penetration from the physical condition of the victim?	Sex Offence - Memo 90 - RK.docx	LEGALEASE-00033080-LEGALEASE-00033081
People v. Kutella, 132 Ill. App. 2d 248	211+1724	When forceable rape for forceable deviate sexual assault is charged, defendant has burden of proving that he is under age and state does not have to allege or prove that fact.	Does a defendant bear the burden of proving they are underage when forcible rape is charged?	043107.docx	LEGALEASE-00143466-LEGALEASE-00143467
Winnebago Tribe of Nebraska v. Kline, 283 Kan. 64	371+2005	The right to tax is penal in nature so that, where there is reasonable doubt as to the meaning of a taxing act, it will be construed most favorably to the taxpayer.	Is the right to tax penal in nature?	045285.docx	LEGALEASE-00142885-LEGALEASE-00142886
Cherokee State Bank of St. Paul v. Wallace, 202 Minn. 582	371+2005	The state constitutional provisions relating to power of taxation are not a grant of power but only a limitation thereon. Const.Minn. art. 9, S 1.	Are the state constitutional provisions relating to power of taxation a grant of power to the state?	045564.docx	LEGALEASE-00142152-LEGALEASE-00142153
Rogers Park Post No. 108, Am. Legion v. Brenza, 8 Ill. 2d 286	371+2166	In Illinois, all property is subject to taxation unless exempt by statute, in conformity with constitutional provisions relating thereto. S.H.A.Const. art. 9, S 1; Ill.Rev.Stat.1953, ch. 120, S 500(7).	Is all property presumed to be subject to taxation?	Taxation - Memo # 654 - C - AP.docx	ROSS-003317083-ROSS-003317084
De Blois v. Comm'r of Corps. & Taxation, 276 Mass. 437	371+2060	Tax imposed by statute on income derived from professions, employments, trade, or business is "property tax" not "excise tax". M.G.L.A. c. 62 SS 5, 6.	"Is a tax imposed by statute on income derived from professions, employments, trade, or business a ""property tax""?"	045655.docx	LEGALEASE-00143007-LEGALEASE-00143008
Whittaker v. Robinson, 981 S.W.2d 118	413+4	Workers' compensation legislation does not create a quasi tort or seek to compensate an injured worker for his or her entire loss; instead, income benefits are awarded on the basis of occupational disability which is equated to a decrease in the injured worker's wage earning capacity. KRS 342.0011(11) (1995).	Does workers compensation create a quasi tort?	048114.docx	LEGALEASE-00142684-LEGALEASE-00142685
Parsons v. Steelman Transp., 335 S.W.3d 6	413+45	The Court of Appeals is guided by the general rules of statutory construction in interpreting the Workers' Compensation Law. V.A.M.S. S 287.010 et seq.	"Is workers compensation law entirely a creature of statute, and what is the court guided by when interpreting it?"	Workers Compensation - Memo #380 ANC.docx	ROSS-003303695-ROSS-003303696
RoadTechs v. MJ Highway Tech., Ltd., 79 F. Supp. 2d 637	25T+156	District court has discretion whether to dismiss or stay action after referring it to arbitration. 9 U.S.C.A. S 3.	Do courts have the discretion to dismiss or stay action after referring it to arbitration?	007664.docx	LEGALEASE-00144684-LEGALEASE-00144685

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McCarney v. Nearing, Staats, Prelogar & Jones, 866 S.W.2d 881	25T+182(1)	Whether party opposing arbitration has been prejudiced by acts inconsistent with arbitration, such that right to arbitrate may have been waived, is determination to be made on case-by-case basis. 9 U.S.C.A. S 1 et seq.	Do courts determine whether inconsistent actions constitute prejudice on a case by case basis?	007711.docx	LEGALEASE-00144826- LEGALEASE-00144827
Auto. Mechanics Local 701 Welfare & Pension Funds v. Vanguard Car Rental USA, 502 F.3d 740	95+206	Enforcement of a forum selection clause, including an arbitration clause, is not jurisdictional; it is a waivable defense.	Is enforcement of the forum selection clause of an arbitration agreement jurisdictional?	007739.docx	LEGALEASE-00144983- LEGALEASE-00144984
United States v. Bryan, 263 F. Supp. 895	34+20.8(1)	Classification process is not adversary proceeding between board and registrant in which slightest misstep will penalize registrant.	Is the classification process an adversary proceeding between the board and a registrant?	008680.docx	LEGALEASE-00144662- LEGALEASE-00144663
Becker v. Hershey, 309 F. Supp. 487	34+20.8(2)	Neither the courts nor the National Director of the Selective Service System has the power of supervision over local draft boards, nor may they assume it; nor may the boards abdicate it. Military Selective Service Act of 1967, S 10(b) (3), 50 U.S.C.A. App. S 460(b) (3).	Do local boards have the sole responsibility for classification?	008695.docx	LEGALEASE-00144680- LEGALEASE-00144681
Perrin v. United States, 444 U.S. 37	63+1(1)	Bribery of private employee prohibited by state criminal statute violates the Travel Act which makes it a federal offense to travel or to use any facility in interstate commerce to commit "bribery * * * in violation of the laws of the State in which committed." 18 U.S.C.A. S 1952.	Does conduct violating state commercial bribery statute also violate Travel Act?	012228.docx	LEGALEASE-00143840- LEGALEASE-00143841
United States v. Brecht, 540 F.2d 45	164T+19	Difference between commercial bribe taking and extortion is only that extortion involves initiative of defendant and coercion of victim. 18 U.S.C.A. S 1951; Penal Law N.Y. SS 155.05, subd. 2 (e)(ix), 180.05.	What is the difference between commercial bribe taking and extortion?	Bribery - Memo #852 - C - LB.docx	ROSS-003287331-ROSS- 003287332
State v. Lopez, 897 N.W.2d 295	67+4	Statutory definition of "building," for purposes of the crime of burglary, encompasses subunits, such as a motel room, and thus, a motel and a rented room within the motel both qualify as a "building" for the purposes of burglary statute; motel room is intentionally constructed from the component parts of walls, a ceiling, and a door, for the express purpose of affording shelter for guests. Minn. Stat. Ann. SS 609.581(2), 609.582(1).	Does a motel room qualify as a building under a burglary statute?	Burglary - Memo 226 - SB.docx	ROSS-003315200-ROSS- 003315203
U.S. v. Wilson, 59 F.2d 97	350H+1263	Burglary of building that is not a dwelling is not "crime of violence" per se, as term is defined for purposes of former version of Sentencing Guidelines' career offender provision, but may, under certain circumstances, be considered as such. U.S.S.G. SS 4B1.1, 4B1.2(1)(ii) (1995).	Is burglary of a non-dwelling a crime of violence?	012943.docx	LEGALEASE-00144910- LEGALEASE-00144911
Helmerich & Payne v. State ex rel. Comm'rs of the Land Office, 935 P.2d 1179	260+5.2(1)	Under royalty clauses in oil and gas leases issued by Commissioners of the Land Office, which based royalty on "market value," state was not entitled to additional royalty payments from lessees in sum equal to its fractional share of value of all gross production and excise taxes that were assessed against gas production and which were paid by purchaser, but which were not deducted from payments to lessees or state.	"Does market value or market price, as used in royalty clauses, mean the gas purchase contract price?"	021387.docx	LEGALEASE-00144215- LEGALEASE-00144216

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Harvey E. Yates Co. v. Powell, 98 F.3d 1222	260+5.2(1)	Under New Mexico law, duty of lessee which entered into statutory gas lease with state to pay royalty on that portion of take-or-pay settlement which is attributable to future price reductions is not triggered until that future production is actually taken by settling purchaser and, thus, when lessee negotiates buy-down payment in exchange for reduced future price term, state has no right to royalty up front on that portion of settlement proceeds; however, when future production under purchase contract is taken at newly "bought-down" price, state should receive royalty based on both proceeds obtained by lessee from sale of gas at bought-down price and commensurate portion of settlement proceeds that is attributable to price reductions applicable to future production under renegotiated gas sales agreement as production occurs. NMSA 1978, S 19-10-4.1.	When is the duty to pay a royalty under a lease which conditions royalty payments on production triggered?	Mines and Minerals - Memo #190 - C - EB.docx	ROSS-003287522-ROSS-003287523
State v. NV Sumatra Tobacco Trading Co., 403 S.W.3d 726	307A+683	Proper question on a motion to dismiss for lack of personal jurisdiction is whether, taking the plaintiff's factual allegations as true and resolving all reasonably disputed facts in the plaintiff's favor, the plaintiff has shown, by a preponderance of the evidence, that state's courts may properly exercise jurisdiction over defendant, rather than the summary judgment standard of whether a genuine issue as to any material fact exists and whether moving party is entitled to judgment as a matter of law. Rules Civ.Proc., Rules 12.02(2), 56.01 et seq.	"If trial court determines that it is appropriate to decide motion to dismiss, is then dismissal proper only if all the specific facts alleged by plaintiff collectively fail to establish a prima facie case?"	032669.docx	LEGALEASE-00144381-LEGALEASE-00144382
Concerned Citizens of Sterling v. Town of Sterling, 204 Conn. 551	15A+2161	Issue of subject matter jurisdiction, arising from alleged failure to exhaust administrative remedies, can be raised at any time, including on appeal; if trial court had no jurisdiction because plaintiffs failed to exhaust their administrative remedies, action must be dismissed.	Can a party challenge a court's subject matter jurisdiction at any time?	033037.docx	LEGALEASE-00143755-LEGALEASE-00143756
State v. Langley, 232 S.W.3d 363	307A+554	If a trial court lacks jurisdiction over some claims but not others, the trial court should dismiss those claims over which it does not have subject matter jurisdiction but retain those claims over which it does.	Do the court retain the power to dismiss claims over which it does not have jurisdiction?	033062.docx	LEGALEASE-00143957-LEGALEASE-00143958
State ex rel. Camden-Clark Mem'l Hosp. v. Hill, 205 W. Va. 236	307A+560	Dismissal for failing to timely serve process on a defendant after an action is filed is mandatory in a case in which good cause for the lack of service is not shown, and a plaintiff whose case is subject to dismissal for noncompliance has two options to avoid the consequences of the dismissal: (1) to timely show good cause for not having effected service of the summons and complaint, or (2) to refile the action before any time defenses arise and timely effect service under the new complaint. Rules Civ.Proc., Rule 4(l) (1997).	Is dismissal for failing to timely serve process on a defendant after an action is filed is mandatory in a case in which good cause for the lack of service not shown?	Pretrial Procedure - Memo # 6461 - C - SKG.docx	LEGALEASE-00034164-LEGALEASE-00034165
St. Louis Police Leadership Org. v. St. Louis Bd. of Police Commissioners, 465 S.W.3d 501	307A+674	A moot case raises the issue of justiciability, and therefore courts may dismiss it sua sponte.	"Should a courts dismiss a moot suasponste,if it raises the issue of justiciability?"	034226.docx	LEGALEASE-00144743-LEGALEASE-00144744

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Perez v. New York City Hous. Auth., 290 A.D.2d 265	307A+746	A dismissal of an action based on a plaintiff's failure to appear at a calendar call should be vacated where the plaintiff shows a reasonable excuse for the default and a meritorious cause of action. N.Y.Ct.Rules, S 202.27.	Should a dismissal of an action based on a plaintiff's failure to appear at a calendar call be vacated where the plaintiff shows a reasonable excuse for the default and a meritorious cause of action?	Pretrial Procedure - Memo # 6630 - C - KG.docx	LEGALEASE-00034273-LEGALEASE-00034274
Bosque v. Rivera, 135 So. 3d 399	307A+563	Although District Court of Appeal reviews a dismissal for fraud on the court under an abuse of discretion standard, that standard of review is somewhat narrowed to take into account that the dismissal must be established by clear and convincing evidence.	"To support a dismissal for fraud on the court, should the movant establish, by clear and convincing evidence, that a party has sentiently set in motion some unconscionable scheme?"	Pretrial Procedure - Memo # 6763 - C - SS.docx	ROSS-003301949-ROSS-003301950
Brown v. Brown, 110 Me. 280	307A+746	Dismissal is the most severe sanction that a court may apply for failure to appear at a pretrial conference, and, thus, judicial discretion must be carefully exercised to assure that the situation warrants the imposition of such a sanction. (Per Crawley, J., with one Judge concurring and two Judges concurring in the result.) Rules Civ.Proc., Rule 16(f).	Is dismissal the most severe sanction that a court can apply for failure to appear at a pretrial conference?	034546.docx	LEGALEASE-00143812-LEGALEASE-00143813
Chiappetta v. LeBlond, 544 A.2d 759	102+2	Trial court possesses inherent authority to sanction parties and attorneys for abuse of litigation process. Rules Civ.Proc., Rule 16(f)(5).	Does a trial court have an inherent power to sanction?	034575.docx	LEGALEASE-00144227-LEGALEASE-00144228
Magruder v. Supplee, 316 U.S. 394	371+2060	Realty "taxes" are merely a form of raising revenue for support of government and are not like "rent", and are not paid for privilege of occupying property for any given period of time.	"Are realty ""taxes"" merely a form of raising revenue for support of government?"	045687.docx	LEGALEASE-00144464-LEGALEASE-00144465
Michigan Land & Iron Co. v. L'Anse Twp., 63 Mich. 700	371+2005	It is the policy of the law to raise taxes no faster than they are likely to be needed, and, while all reasonable presumptions may be made in favor of the necessities of a new region, no presumption can stand when overthrown by facts.	Is the policy of the law to raise taxes no faster than they are likely to be needed?	Taxation - Memo # 753 - C - DHA.docx	ROSS-003331922-ROSS-003331924
Commonwealth v. Union Pac. R. Co., 214 Ky. 339	371+2005	State, in exercising its right to tax, exercises attributes of sovereignty, and may tax only things and persons subject thereto.	Which attributes is a state exercising in its right to tax?	Taxation - Memo # 768 - C - VA.docx	LEGALEASE-00034716-LEGALEASE-00034717
Nadeau v. Equity Residential Properties Mgmt. Corp., 251 F. Supp. 3d 637	25T+134(1)	Under the Federal Arbitration Act (FAA), a party seeking to avoid enforcement of an arbitration agreement can invoke a defense that would be available to a party seeking to avoid the enforcement of any contract. 9 U.S.C.A. S 2.	Can an arbitration agreement be avoided by a defense that is only applicable to arbitration agreements?	007768.docx	LEGALEASE-00146427-LEGALEASE-00146428
Int'l Paper Co. v. Schwabedissen Maschinen & Anlagen GMBH, 206 F.3d 411	156+52(1)	"Equitable estoppel" precludes a party from asserting rights he otherwise would have had against another when his own conduct renders assertion of those rights contrary to equity.	What does the doctrine of equitable estoppel mean in the context of arbitration?	Alternative Dispute Resolution - Memo 728 - RK.docx	LEGALEASE-00034868-LEGALEASE-00034869
Curtis v. United States, 33 Fed. Cl. 586	34+30	Decision by President or his deputies to award particular medal is discretionary act which is not reviewable by court of federal claims.	Is the decision to award a medal reviewable by the court?	Armed Services - Memo 153 - SNJ.docx	ROSS-003301955-ROSS-003301956
United States v. Townsend, 630 F.3d 1003	63+1(2)	Term "any thing of value," as used in the federal statute prohibiting bribes offered to state and local officials employed by agencies receiving federal funds, may include intangibles, such as freedom from jail and incremental increases in such freedom. 18 U.S.C.A. S 666(a)(1)(B).	Does the term thing of value include intangibles?	01678.docx	LEGALEASE-00092052-LEGALEASE-00092053
United States v. Brecht, 540 F.2d 45	164T+4	Main purpose of Congress in enacting Hobbs Act was to combat labor racketeering. 18 U.S.C.A. S 1951.	What was the main purpose of Congress in enacting the Hobbs Act?	012255.docx	LEGALEASE-00145072-LEGALEASE-00145074

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Romes v. Commonwealth, 164 Ky. 334	142T+725(1)	Proof of general reputation of accused as bribe taker and of his having accepted bribes on other occasions held not the corroboration of a witness required under Ky.St. S 1594, in a prosecution for bribery.	Can evidence of the general reputation of the accused as a bribe-taker corroborate his guilt for accepting the bribe for which he's being prosecuted?	012277.docx	LEGALEASE-00145184- LEGALEASE-00145185
State v. Hows, 31 Utah 168	67+23	Under Rev. St. 1898, S 4334, as amended by Sess. Laws 1905, p. 16, c. 19, making it burglary for any person to break and enter a building with intent to commit a larceny or any other felony, an information charging the breaking and entering a building at night with intent to steal goods, without stating their value, sufficiently charges a burglary in the first degree, as larceny within such section includes both a misdemeanor and a felony, and the words "or any other felony" are equivalent to "or any felony other than that embraced within the larcency."	Does burglary involve intent to commit any felony?	012851.docx	LEGALEASE-00145434- LEGALEASE-00145437
Wagshal v. Rigler, 711 A.2d 112	307A+560	In determining whether plaintiff has shown good cause why action should not be dismissed for untimely service, court considers reasons for the plaintiff's failure to comply with the rule, prejudice to the plaintiff and lack of prejudice to the defendant accruing from the dismissal, and whether plaintiff has made some showing of reasonable diligence in attempting to comply with the rules. Civil Rules 4(m), 41(b).	Is the reason for the plaintiff's failure to comply with the rule the principal factor to be considered in the good-cause inquiry?	034404.docx	LEGALEASE-00145158- LEGALEASE-00145159
Horjales v. Loeb, 291 So. 2d 92	307A+552	Court has right to dismiss a cause with prejudice when collusion appears between plaintiff and a principal defendant.	Does court have right to dismiss a cause with prejudice when collusion appears between plaintiff and a principal defendant?	034724.docx	LEGALEASE-00146268- LEGALEASE-00146269
Ballard v. Weast, 121 N.C. App. 391	307A+552	Cases should have been dismissed where plaintiffs' claims were moot at time summary judgment determination was made.	Should a case be dismissed if plaintiffs' claims were moot at time summary judgment order was entered?	034800.docx	LEGALEASE-00145712- LEGALEASE-00145713
Szilagyi v. Testa, 99 Nev. 83	307A+563	Court may dismiss a complaint for failure to prosecute or for violation of a court order.	Can a court dismiss a complaint for failure to prosecute or for violation of a court order?	10868.docx	LEGALEASE-00094748- LEGALEASE-00094749
Texas Employers' Ins. Ass'n v. Bragg, 670 S.W.2d 712	307A+483	No motion to deem unanswered requests for admissions admitted must be filed. Vernon's Ann.Texas Rules Civ.Proc., Rule 169.	Should no motion to deem unanswered requests for admissions admitted be filed?	Pretrial Procedure - Memo # 7227 - C - KI.docx	ROSS-003289507-ROSS- 003289508
Denson v. T.D.C.J.-I.D., 63 S.W.3d 454	307A+552	Trial court may dismiss a claim as frivolous when it has no arguable basis in law or fact. V.T.C.A., Civil Practice & Remedies Code S 14.003(a)(2), (b)(2).	Is it an abuse of discretion to dismiss a case that arguably has a basis in law or fact?	035290.docx	LEGALEASE-00145543- LEGALEASE-00145544
Kolsti v. Guest, 576 S.W.2d 892	307A+552	When a case becomes moot, only proper judgment is one dismissing the cause.	Is the only proper judgment to dismiss the cause when a case becomes moot?	035311.docx	LEGALEASE-00146151- LEGALEASE-00146152
City of Philadelphia Water Revenue Bureau v. Frempong, 744 A.2d 822	307A+741	Party is under same duty to appear at a scheduled conciliation or a pre-trial conference as to appear for trial.	Is a party under the same duty to appear at a scheduled pre-trial conference as to appear at trial?	035381.docx	LEGALEASE-00145385- LEGALEASE-00145386
People ex rel. Wolff v. Wheeler, 60 Ill. App. 351	307A+552	Courts do not sit for the purpose of entering judgment in matters about which there is neither controversy nor necessity for adjudicating, and a court may, sua sponte, dismiss a suit which appears to be a mere mock contention.	"Can a court suasponte, dismiss a suit which appears to be a mere mock contention?"	035494.docx	LEGALEASE-00146323- LEGALEASE-00146324
In re D.W., 202 N.C. App. 624	307A+724	Continuances are not favored and the party seeking a continuance has the burden of showing sufficient grounds for it.	Does a party seeking a continuance have the burden of showing sufficient grounds for granting the motion?	035544.docx	LEGALEASE-00146321- LEGALEASE-00146322

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
DuBois v. Workers' Comp. Appeals Bd., 5 Cal. 4th 382	413+2	Right to workers' compensation benefits is wholly statutory and is not derived from common law. West's Ann.Cal. Const. Art. 14, S 4.	"For workers compensation, is the right to benefits wholly statutory?"	048241.docx	LEGALEASE-00145553-LEGALEASE-00145554
Vorvis v. S. New England Tel. Co., 821 F. Supp. 851	413+2	Under Connecticut Worker's Compensation Act, employee generally surrenders his or her right to bring common-law action against employer. C.G.S.A. SS 31-275 et seq., 31-284(a).	"Under the Workers Compensation Act, what does the employee surrender?"	048270.docx	LEGALEASE-00145655-LEGALEASE-00145656
Alvarez v. Meadow Lane Mall Ltd. P'ship, 560 N.W.2d 588	307A+560	Dismissal of action is required if there is "abusive delay" in completing service. Rules Civ.Proc., Rule 49.	"Is a dismissal of action required if there is ""abusive delay"" in completing service?"	Pretrial Procedure - Memo # 7067 - C - AP_58320.docx	ROSS-003294654-ROSS-003294656
State v. Walker, 130 S.W.3d 18	67+4	Test applicable in determining whether a structure is a "building," as that term is used in burglary statute, is whether the structure is suitable for affording shelter for human beings. M.S.A. S 609.58, subd. 1(2).	What is the test to determine if a structure is a building under a burglary statute?	012996.docx	LEGALEASE-00147888-LEGALEASE-00147889
Emerson v. McWhirter, 133 Cal. 510	260+25	Where a local regulation required a notice of a mining claim to be posted at each end thereof, and notice was posted at only one end, all other regulations being complied with, the failure to post at both ends did not work a forfeiture, in the absence of a rule so providing.	Can a failure to comply with the local mining rules and customs work a forfeiture?	021578.docx	LEGALEASE-00147750-LEGALEASE-00147751
Sheridan v. McElligott, 278 N.Y. 59	268+200(10)	Under provision of Greater New York Charter relating to the annual allowance to the representative of the member of the uniformed force who shall die during his term of service, the discretion to award a pension not to exceed one-half of the salary of deceased member is vested in the Fire Commissioner as trustee of the relief funds and is not reviewable by the courts. Greater New York Charter, S 791, as amended by Loc.Laws 1930, p. 84.	Are actions taken by officials relating to pensions reviewable by courts?	022838.docx	LEGALEASE-00147840-LEGALEASE-00147841
In re Baker's Estate, 48 Misc. 2d 732	296+10	United States could recover from decedent's estate the pension benefits paid to her as widow of World War I veteran, where benefits were premised on her representation that she had terminated her purported marital relationship with another man and this representation was false. 38 U.S.C.A. S 101(3).	Does the United States have the ability to recover benefits received by a decedent from the Veterans Administration that were procured by false representation?	Pension - Memo 67 - JK_57653.docx	ROSS-003291876-ROSS-003291877
Bond v. Dunmire, 129 Ill. App. 3d 796	302+11	Allegations of legal conclusions and allegations of evidence constitute merely formal defects in complaint, and not defects of substance. S.H.A. ch. 110, P 2-612(b).	Do allegations of legal conclusions constitute defects of substance?	023565.docx	LEGALEASE-00146977-LEGALEASE-00146978
In re Bustamante, 510 S.W.3d 732	302+16	A pleading is sufficient when an opposing party can ascertain from the pleading the nature, basic issues, and the type of evidence that might be relevant to the controversy. Tex. R. Civ. P. 47(a).	When is a pleading sufficient?	023573.docx	LEGALEASE-00147371-LEGALEASE-00147372
The Huff Energy Fund v. Longview Energy Co., 482 S.W.3d 184	302+34(6)	Where special exceptions are not filed, court construes the petition liberally in favor of the pleader.	"Should a petition be construed liberally in favor of the pleader, when there are no special exceptions?"	023575.docx	LEGALEASE-00147452-LEGALEASE-00147453
Brandt v. MillerCoors, 2013 IL App (1st) 120431	307A+687	A motion to dismiss based upon certain defects or defenses admits the sufficiency of the claim but asserts affirmative matter that defeats the claim; the motion takes as true all well-pleaded facts and all reasonable inferences taken from those facts. S.H.A. 735 ILCS 5/2-619.	Can the motion consider all well-pleaded facts and all reasonable inferences taken from those facts as true?	10264.docx	LEGALEASE-00095467-LEGALEASE-00095468

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Fanaro v. First Nat. Bank of Chicago, 160 Ill. App. 3d 1030	336H+125	Dismissal for want of prosecution is not considered adjudication on merits; such dismissal does not prejudice party against whom dismissal was entered, nor does such dismissal receive res judicata effect, and vacatur of that dismissal does not constitute another action. S.H.A. ch. 110, P 13-217.	Will suits dismissed for want of prosecution decide any issues in controversy?	11154.docx	LEGALEASE-00094057-LEGALEASE-00094058
Manuel v. Lacarbo, 554 So. 2d 774	307A+590.1	Enrollment or substitution of counsel is not a step in prosecution or defense of suit for purposes of avoiding dismissal of suit for failure to take any action in trial court for period of five years. LSA-C.C.P. art. 561.	Is enrollment or substitution of counsel not a step in prosecution or defense?	11173.docx	LEGALEASE-00094613-LEGALEASE-00094614
Allied Gas & Chem. Co. v. Federated Mut. Ins. Co., 365 N.W.2d 26	307A+676	If there is an appeal, or if other grounds for an exemption are established, automatic dismissal rule is inapplicable, and is not renewed until a notice under rule is again sent after grounds for exemption are removed. Rules Civ.Proc., Rule 215.1.	"If there is an appeal, or if other grounds for an exemption are established, is the automatic dismissal rule inapplicable?"	Pretrial Procedure - Memo # 7795 - C - TM.docx	LEGALEASE-00037600-LEGALEASE-00037601
People v. Willis, 79 A.D.3d 1739	110+312	Because the question of whether a person was seeking sexual gratification is generally a subjective inquiry, it can be inferred from the conduct of the perpetrator.	Can sexual gratification be inferred from the defendants action?	042958.docx	LEGALEASE-00147939-LEGALEASE-00147941
In re J.B.M., 157 S.W.3d 823	352H+190	In a case where the charge is attempted sexual assault, intent may be inferred from the defendant's actions, words, and conduct. V.T.C.A., Penal Code SS 15.01(a), 22.011(a)(1).	How is intent for sexual assault inferred?	042980.docx	LEGALEASE-00147970-LEGALEASE-00147971
Rector v. Dep't of Labor & Indus. of State of Wash., 61 Wash. App. 385	413+2	Industrial insurance claim is governed by explicit statutory directives and not by common law. West's RCWA 51.04.010 et seq.	Is an industrial insurance claim governed by common law?	Workers Compensation - Memo #483 ANC.docx	ROSS-003286966-ROSS-003286967
Milwaukee Am. Ass'n v. Landis, 49 F.2d 298	25T+163	Good-faith submission to arbiter is proper, and decision is binding, unless unsupported by evidence, or without legal foundation.	Is a submission in good faith to an arbiter controverted questionconsidered proper and binding?	Alternative Dispute Resolution - Memo 760 - RK.docx	LEGALEASE-00037873-LEGALEASE-00037874
Baker v. Conoco Pipeline Co., 280 F. Supp. 2d 1285	25T+182(1)	The mere passage of time cannot be relied upon as a waiver of the right to arbitrate.	Can passage of time be relied upon as a waiver of the right to arbitrate?	Alternative Dispute Resolution - Memo 790 - RK_58123.docx	ROSS-003293646-ROSS-003293647
Galloway v. United States, 319 U.S. 372	34+73(1)	"Total and permanent disability", within war risk insurance statutes, means something more than incipient or occasional disability. War Risk Insurance Acts, 1917, S 400, 40 Stat. 409, 1918, S 13, 40 Stat. 555.	Does the meaning of the term Total and permanent disability mean something more than incipient or occasional disability?	008774.docx	LEGALEASE-00148834-LEGALEASE-00148835
Goolrick v. Wallace, 154 Ky. 596	83E+430	The purpose of an indorsement without recourse is to transfer the title to the instrument without creating any personal liability on the part of the indorser.	What is the effect or purpose of indorsement of a note without recourse?	Bills and Notes - Memo 640 - ANM_58192.docx	ROSS-003323261-ROSS-003323262
In re Onstad's Estate, 224 Wis. 332	366+4	Both under common law and suretyship and provision of Negotiable Instrument Law declaring person absolutely liable to pay instrument primarily liable, an accommodation maker of a note, as surety, is entitled by subrogation to whatever security payee has for enforcement of claim against principal maker (St.1929, S 116.01).	Does Negotiable Instrument Law change the law of suretyship?	010505.docx	LEGALEASE-00148145-LEGALEASE-00148146

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Standard Fed. Sav. & Loan Ass'n v. Citizens Ins. Co. of Am., 99 Mich. App. 338	8.30E+05	Standard that technical construction of negotiable instrument law is not to be favored remains applicable standard notwithstanding adoption of Uniform Commercial Code. M.C.L.A. SS 440.3105, 440.3112(1), 440.3118 comment.	Should technical construction of negotiable instrument law be favored?	010509.docx	LEGALEASE-00148113-LEGALEASE-00148114
Ricketts v. Harvey, 106 Ind. 564	8.30E+162	If the consideration of a promissory note is in part legal and in part illegal, and is indivisible, there can be no recovery upon such note.	Can there be a recovery if the consideration of a promissory note is in part illegal?	010531.docx	LEGALEASE-00148420-LEGALEASE-00148421
Commercial Trading Co. v. Trade Bank & Tr. Co., 207 Misc. 510	8.30E+05	The free circulation of negotiable paper is to be encouraged and the law must be interpreted in that light.	Should negotiable instrument law be interpreted in view of free circulation of negotiable paper?	010544.docx	LEGALEASE-00148462-LEGALEASE-00148463
Hayes v. Midland Credit Co., 173 Minn. 554	83E+412	Person lending commercial paper to accommodate another may limit use to be made thereof, unless it passes to holder in due course.	Can the accommodation party limit the use of accommodation paper for a specific purpose?	Bills and Notes- Memo 677-PR.docx	LEGALEASE-00038118-LEGALEASE-00038119
Vinyard v. United States, 335 F.2d 176	110+382	Legality of initial arrest for refilling of liquor bottles was immaterial in prosecution for subsequent bribery of arresting officers. 18 U.S.C.A. S 201(b)(3); 26 U.S.C.A. (I.R.C.1954) S 5301(C).	Is the legality of the arrest material for bribery subsequent to arrest?	012448.docx	LEGALEASE-00148286-LEGALEASE-00148287
People v. DeRouen, 38 Cal. App. 4th 86	67+6	Defendant could be convicted of burglary in the first degree based on his theft of property from vacation homes, notwithstanding his claim that homes were not "inhabited dwellings" within meaning of burglary statutes because no one lived at homes at time of commission of offense and there was no evidence that any of the victims intended to return to homes for more than overnight visit in the future; occupant of a vacation home reasonably expects same protection from unauthorized intrusions as occupant of any other residence. West's Ann.Cal.Penal Code SS 459, 460.	Is a vacation home considered a dwelling under the burglary statute?	013026.docx	LEGALEASE-00148800-LEGALEASE-00148801
State v. Schneider, 36 Wash. App. 237	67+6	Law of burglary is designed to protect the dweller and, hence, controlling question is occupancy rather than ownership. West's RCWA 9A.52.010(3), 9A.52.030(1).	Does the law of burglary protect the dweller?	Burglary - Memo 268 - RK_58150.docx	ROSS-003321035-ROSS-003321036
Rosette Inc. v. United States, 277 F.3d 1222	260+2	Geothermal process as a whole was inorganic, and therefore geothermal resources were properly classified as generally mineral in character for purposes of determining whether such resources qualified as "mineral" under reservation of mineral rights mandated by Stock Raising Homestead Act (SRHA). 43 U.S.C.A. S 299.	Is the geothermal process as a whole inorganic to be classified as mineral in character?	Mines and Minerals - Memo # 25 - C - EB_57974.docx	ROSS-003293155-ROSS-003293156
Sutton v. SM Energy Co., 421 S.W.3d 153	260+78.1(1)	Although habendum clause in oil and gas lease typically controls mineral estate's duration, other clauses may extend habendum clause's term.	Does a lease's habendum clause define the mineral estate's duration?	021584.docx	LEGALEASE-00148223-LEGALEASE-00148224
Clifton v. Koontz, 160 Tex. 82	260+68(1)	In a mineral lease, the terms "produced" and "produced in paying quantities" mean substantially the same thing.	Do the terms produced and produced in paying quantities mean substantially the same thing?	Mines and Minerals - Memo #308 - C - CSS_57759.docx	ROSS-003291838-ROSS-003291839
Leabo v. Leninski, 2 Conn. App. 715	302+34(1)	A formalistic or highly technical construction of pleadings is contrary to a proper view of pleading requirements.	Is a formalistic or highly technical construction of pleadings required?	Pleading - Memo 463 - RMM_58011.docx	ROSS-003296060-ROSS-003296061
Mueller v. N. Broward Hosp. Dist., 403 So. 2d 581	307A+590.1	Record activity, as would preclude dismissal for failure to prosecute, need not be directed to or instituted by party who seeks dismissal. 30 West's F.S.A. Rules of Civil Procedure, Rule 1.420(e).	Should record activity not be directed to or instituted by a party who seeks dismissal?	036427.docx	LEGALEASE-00149041-LEGALEASE-00149042

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Perrin v. Papa John's Int'l, 114 F. Supp. 3d 707	170A+2554	Defendants raising affirmative defense of statute of limitations in five class actions asserting minimum wage claims under state laws and FLSA collective action did not meet their burden of proof to produce facts showing that some or all of plaintiffs' claims fell outside applicable limitations period, where they had not identified applicable statute of limitations or put forth facts which supported their defense and their opposition brief did not respond to, or even mention, plaintiffs' motion for partial summary judgment on that defense. Fair Labor Standards Act of 1938, S 1 et seq., 29 U.S.C.A. S 201 et seq.	Does a defendant bear the initial burden to prove the affirmative matter defeating the plaintiff's claim?	036585.docx	LEGALEASE-00148780-LEGALEASE-00148781
Smith v. SunTrust Bank, 554 B.R. 344	308+166(1)	In order to ratify an agreement, under North Carolina law, a party must have full knowledge of all material facts relative to the unauthorized transaction.	Can an agreement/transaction be ratified without full knowledge?	041361.docx	LEGALEASE-00148520-LEGALEASE-00148521
In re J.B.M., 157 S.W.3d 823	352H+190	In a case where the charge is attempted sexual assault, intent may be inferred from the defendant's actions, words, and conduct. V.T.C.A., Penal Code SS 15.01(a), 22.011(a)(1).	How is an accuseds intent for sexual assault inferred?	Sex Offence - Memo 117 - RK_58168.docx	ROSS-003283099
In re Manion, 2008 WL 4180294	92+1229	The trial court did not abuse its discretion in ordering discovery of financial records in a contract and tort suit involving the care and breeding of horses. The record contained no indication that the documents were confidential or privileged, and the party seeking to avoid discovery failed to cite any authority in support of a constitutional privacy right in one's personal financial records.	Do financial records have a constitutional right to privacy?	Bills and Notes - Memo 759 - KC_58510.docx	ROSS-003282409-ROSS-003282410
Harper v. State Farm Mut. Auto. Ins. Co., 484 So. 2d 737	8.30E+294	A "check" is a negotiable instrument, defined in relevant part as a draft, other than a documentary draft, payable on demand and drawn on a bank, and inherent in its definition, a check is a promise to pay which can be taken by the bearer or indorsee and cashed or converted on demand into federal reserve notes equaling the value stated on the check. West's Ga.Code Ann. S 11-3-104(f).	Is check payable on demand?	010651.docx	LEGALEASE-00149684-LEGALEASE-00149685
Larrabee v. Bank of Am., N.A., 714 F. Supp. 2d 562	172H+1344	Borrower who sued lender and Federal Home Loan Mortgage Corporation (Freddie Mac), seeking rescission of mortgage loan transaction, failed to allege that lender inaccurately disclosed number and due dates of mortgage payments, as required to state claim under Truth in Lending Act (TILA); borrower's erroneous construction of mortgage terms on disclosure form would have mandated 359 loan payments on single date. Truth in Lending Act, S 103(u), 15 U.S.C.A. S 1602(u); 12 C.F.R. S 226.18(g).	Is a creditor required to disclose the due dates or periods of payments scheduled under the federal law?	Consumer Credit - Memo 61 - KC_58078.docx	ROSS-003308128-ROSS-003308129
Caraang v. PNC Mortg., 795 F. Supp. 2d 1098	172H+32	Lenders generally do not owe their borrowers a duty of care sounding in negligence.	Does the lender owe borrower a duty of care sounding in negligence?	Creditors' Remedies - Memo 12- RK_58634.docx	ROSS-003284405-ROSS-003284406
Newcomb v. Peck, 17 Vt. 302	108H+8	A plea of nil debet is not a good plea to an action of debt on a judgment of another state.	Is nil debet a good plea to an action founded on a judgment of another state?	014057.docx	LEGALEASE-00149874-LEGALEASE-00149875

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Cuka v. State, 80 S.D. 232	200+80	Under option agreement specifically stating purpose of acquiring plaintiff's property was to secure necessary right of way for highway purposes only, easement was all that state could acquire regardless of form of instrument of conveyance. SDC 1960 Supp. 28.13A01-28.13A03.	Can state acquire easement regardless of the form of the instrument of conveyance?	Highways -Memo 258 - DB_58542.docx	ROSS-003292426-ROSS-003292427
Almand v. Atlanta Consol. St. Ry. Co., 108 Ga. 417	268+647	When a municipal corporation is created, it becomes vested with jurisdiction over the territory embraced within its corporate limits, and the mere fact that there has been a valuable improvement made by the county authorities on one of the streets of an incorporated city does not oust the municipality of its jurisdiction over such street notwithstanding the street improved was, before the incorporation of the city, a part of an established public road of the county.	Does the creation of a municipal corporation restrict power of the counties over roads?	019280.docx	LEGALEASE-00149495-LEGALEASE-00149496
Noel Canning v. N.L.R.B., 705 F.3d 490	92+606	When interpreting a constitutional provision, court must look to the natural meaning of the text as it would have been understood at the time of the ratification of the constitution.	How should a statute or constitutional provision be interpreted?	021709.docx	LEGALEASE-00149810-LEGALEASE-00149811
Gayon v. McCarthy, 252 U.S. 171	221+212	Cr.Code, S 10, as amended by Act May 7, 1917, 18 U.S.C.A. S 22, as to hiring or retaining another to go outside the United States with intent to enlist in the service of a foreign people, uses "retain" as an alternative to "hire," and as meaning something different from the usual employment with payment in money; and one may be retained, in the sense of engaged, to render a service by a verbal promise, and by a prospect for advancement or payment in the future.	Can retain be used as an alternative to hire?	Neutrality Laws - Memo 29- ANM_58556.docx	ROSS-003306964-ROSS-003306965
Hamilton v. Williams, 298 S.W.3d 334	310+324	An inmate's claim has no arguable basis in law, and may thus be dismissed as frivolous, if it relies upon an indisputably meritless legal theory. V.T.C.A., Civil Practice & Remedies Code S 14.003.	Does a claim have any arguable basis in law if it relies on an indisputably meritless legal theory?	036362.docx	LEGALEASE-00149249-LEGALEASE-00149250
Whipps v. Ryan, 2014 WL 6725850	307A+581	Property owner failed to show good cause why his claims against various parties in consolidated actions involving several parcels of real property should not be dismissed for failure to prosecute, despite contention that owner was denied the opportunity to pursue his claims while other matters in the case were pending and that trial court had declared him a vexatious litigator; owner provided no examples of an instance in which he sought to pursue his claims, and despite his active involvement in the case owner never filed a motion to compel additional discovery or instituted proceedings for judgment as a matter of law. Rules Civ.Proc., Rule 41(B)(1).	Do proper factors for consideration in a dismissal with prejudice for failure to prosecute include the drawn-out history of the litigation?	Pretrial Procedure - Memo # 8022 - C - DHA.docx	LEGALEASE-00039364-LEGALEASE-00039365
Bavand v. OneWest Bank, F.S.B., 176 Wash. App. 475	307A+622	Motions to dismiss for failure to state a claim should be granted only sparingly and with care. CR 12(b)(6).	Should motions to dismiss for failure to state a claim be granted only sparingly and with care?	Pretrial Procedure - Memo # 8193 - C - KBM.docx	LEGALEASE-00039550-LEGALEASE-00039551
Testa v. Roberts, 44 Ohio App. 3d 161	308+4	Creation of power of attorney requires that principal be mentally competent at time power is executed.	Should the principal be mentally competent to execute a power of attorney?	041395.docx	LEGALEASE-00149605-LEGALEASE-00149606

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Brown v. State of La., 383 U.S. 131	211+1666(5)	Defendant charged with first-degree sexual assault and child molestation was not entitled to mens rea instruction stating that the purpose of defendant's penile penetration of child victim was for his sexual arousal or gratification and did not result from innocent or inadvertent touching; contact by penile penetration precludes innocent or accidental touching, and defendant's acts occurred over the course of seven years.	Is mens rea instruction necessary for crimes involving penile penetration?	042990.docx	LEGALEASE-00149796- LEGALEASE-00149797
Bullock v. Texas Monthly, 731 S.W.2d 160	371+2288	It is inherent in the exercise of the power to tax that a state be free to select the subjects of taxation and to grant exemptions.	Is the government free to select the subjects of taxation?	Taxation - Memo # 853 - C - JL_58481.docx	ROSS-003294150-ROSS-003294151
Elston v. Dewes, 28 Ill. 436	83E+675	Prior to the act of the general assembly of 1861, Laws 1861, p. 119, days of grace could not be claimed by the maker of a note.	Did days of grace exist as a right prior to the passing of the act of 1861 with regard to promissory notes?	010004.docx	LEGALEASE-00150240- LEGALEASE-00150241
Petit v. U.S. Dept. of Educ., 756 F.Supp.2d 11	141E+867	Department of Education regulation excluding cochlear implant mapping as service covered under Individuals with Disabilities Education Act (IDEA) did not contravene IDEA, since mapping was not "related service" designed to meet disabled students' unique needs and prepare them for further education, employment, and independent living; regulation was necessary for agency's compliance with IDEA and did not substantively alter protections embodied in prior regulations, and agency properly determined that fitting of hearing devices did not include technical adjustments. Individuals with Disabilities Education Act, S 602(26), 20 U.S.C.A. S 1401(26); 34 C.F.R. S 300.34(b).	What is the IDEA designed to do?	017032.docx	LEGALEASE-00150146- LEGALEASE-00150147
Woldert v. Skelly Oil Co., 202 S.W.2d 706	156+25	A stranger to a deed, on the theory of estoppel may not establish his title by recitals in such deed.	Can a stranger to a deed establish his title by recitals in such deed on the theory of estoppel?	018004.docx	LEGALEASE-00150454- LEGALEASE-00150455
Gorby v. McEndarfer, 135 Ind. App. 74	200+80	Abutting owner owns to center of street or highway, subject only to easement of public to use of street or highway.	Do abutting owners own the center of the street or highway?	Highways -Memo 264 - DB_58962.docx	ROSS-003326185
JLG Trucking v. Garza, 466 S.W.3d 157	302+20	Parties may plead conflicting claims and defenses in the alternative so long as they have a reasonable basis in fact and law.	Can alternative defenses be pleaded?	023654.docx	LEGALEASE-00150462- LEGALEASE-00150463
Lemlem v. Adams, 2004-0281 (La. App. 1 Cir. 2/11/05)	307A+581	Rule on abandonment is not meant to dismiss actions on mere technicalities, but to dismiss actions that clearly have been abandoned. LSA-C.C.P. art. 561.	Is the rule on abandonment meant to dismiss actions on mere technicalities or to dismiss actions that clearly have been abandoned?	Pretrial Procedure - Memo # 8071 - C - SKG_58748.docx	ROSS-003279232-ROSS-003279233
Wake Cty. v. Hotels.com, 235 N.C. App. 633	307A+681	Motion to dismiss for failure to state a claim is addressed solely to the sufficiency of the complaint. Rules Civ.Proc., Rule 12(b)(6), West's N.C.G.S.A. S 1A-1.	Is a motion to dismiss for failure to state a claim addressed solely to the sufficiency of the complaint?	036788.docx	LEGALEASE-00150154- LEGALEASE-00150155
Steinberger v. McVey ex rel. Cty. of Maricopa, 234 Ariz. 125	307A+622	The plausibility or sufficiency of plaintiff's evidence is not at issue in determining the legal sufficiency of a complaint.	Is the plausibility or sufficiency of plaintiffs evidence not at issue in determining the legal sufficiency of a complaint?	036874.docx	LEGALEASE-00150272- LEGALEASE-00150273
McMillan v. Wells, 924 S.W.2d 33	307A+581	Missouri law disfavors dismissal of causes for failure to prosecute; law favors trial on merits.	Does law disfavor dismissal of cases because of failure to prosecute?	037078.docx	LEGALEASE-00150634- LEGALEASE-00150636
G.H. Skala Const. Co. v. NPW, 704 N.E.2d 1044	307A+581	It is a party's responsibility to keep informed of hearing dates through an attorney or his own initiative.	Is it a party's responsibility to be informed of hearing dates through an attorney or his own initiative?	Pretrial Procedure - Memo # 8525 - C - TJ_59204.docx	ROSS-003294442-ROSS-003294443
Geren v. Gruber, 26 La. Ann. 694	371+2001	Taxes are not "debts" in the ordinary sense of that word, but forced contributions for the support of the body politic.	Are taxes debts in the ordinary sense of the word?	045964.docx	LEGALEASE-00150590- LEGALEASE-00150591

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Plum Creek Timber Co. v. Washington State Forest Practices Appeals Bd., 99 Wash. App. 579	149E+595(7)	Substantial evidence supported determination by Forest Practices Appeals Board (FPAB) that larger project of which proposed road project was a part would not have a probable, significant adverse impact upon recreation or aesthetics, so that rule adopted by Department of Ecology pursuant to Forest Practices Act did not make road project, which was a Class III forest practice otherwise exempt from review under State Environmental Practices Act (SEPA), subject to SEPA review. West's RCWA 34.05.570(3)(e), 76.09.040, 76.09.050(1); Wash. Admin. Code S 197-11-305.	Does the Forest Practices Act authorize the Forest Practices Board to adopt forest practice rules?	047574.docx	LEGALEASE-00150556- LEGALEASE-00150557
Jernigan v. Bank One, Texas, N.A., 803 S.W.2d 774	83E+813	Negotiation of commercial paper takes place only when endorsement is made and until then there is no presumption that transferee is owner. V.T.C.A., Bus. & C. S 3.201(c).	Will Negotiation of Commercial paper takes place when an indorsement is made?	Bills and Notes - Memo 206- IS_59300.docx	ROSS-003283058-ROSS-003283059
Livonia Prop. Holdings v. 12840-12976 Farmington Rd. Holdings, 717 F. Supp. 2d 724	83E+435	Under Michigan law, allonge affixed to promissory note effectively negotiates instrument without regard to space remaining on original instrument. M.C.L.A. S 440.3204(1).	Can an allonge effectively negotiate an instrument?	Bills and Notes-Memo 1065 -IS_59336.docx	ROSS-003294473-ROSS-003294474
Citizens' Tr. Co. v. Ward, 195 Mo. App. 223	83E+429	The indorsement of a note, "Pay to any bank or banker," is an indorsement for collection, and does not transfer title.	"Is pay to any bank or banker an indorsement for collection and that such an indorsement, under the general rule did not transfer title?"	Bills and Notes-Memo 1126-IS_59405.docx	ROSS-003281225-ROSS-003281226
In re Key W. Rest. & Lounge, 54 B.R. 978	217+1971	Insurance policy, which does not contain unconditional promise to pay sum certain in money, is not negotiable instrument; therefore, transfer of policy is not covered by Article 3 of Uniform Commercial Code. U.C.C. S 3-101 et seq.	"Is an insurance policy, a negotiable instrument?"	010816.docx	LEGALEASE-00150794- LEGALEASE-00150795
Mruk v. Mortg. Elec. Registration Sys., 82 A.3d 527	83E+426	Under Rhode Island's version of Uniform Commercial Code (UCC), endorsements need not be sealed or dated, and endorsements in blank made only by the signature of the endorser are valid. Gen.Laws 1956, S 6A-3-205.	Is validity of endorsement in blank recognized?	010826.docx	LEGALEASE-00151359- LEGALEASE-00151360
Suhr v. Felter, 589 So.2d 583	48A+12	Broken down vehicle awaiting repair was legally parked on highway shoulder where vehicle did not obstruct flow of traffic, was not hazard to public safety, and was not in area designated as no parking area. LSA-R.S. 32:2, 32:143, 32:144, subd. B, 32:296, 48:342.	Is parking on the shoulder of a highway permitted?	Highways - Memo 52 - IS.docx	LEGALEASE-00040724- LEGALEASE-00040725
Missouri Pac. R. Co. v. Izard Cty. Highway Imp. Dist. No. 1, 143 Ark. 261	200+122	The assessment for local improvements is not a "tax" in the ordinary sense of that term as used within the Constitution and in statutes generally.	Is the assessment for local improvement a tax?	019163.docx	LEGALEASE-00151016- LEGALEASE-00151017
Martin Cty. v. Wachovia Bank & Tr. Co., 178 N.C. 26	200+121	The construction and maintenance of roads and bridges is a matter of general public concern, of benefit to people of the entire state, and Legislature may cast expense thereof upon state at large, or on territory specially and immediately benefited, even though the work may not be a part of the total area attached.	Is the construction of roads a matter of general public concern?	Highways -Memo 368 - DB_59245.docx	ROSS-003280244
De La Garza v. Ryals, 239 S.W.2d 854	302+38.5	A petition is principally a recital of facts which give rise to a cause of action.	Is a petition a recital of facts which give rise to a cause of action?	Pleading - Memo 504 - RMM_59429.docx	ROSS-003279202-ROSS-003279203

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Golden Valley Elec. Ass'n v. Coll. Enterprises, 455 P.2d 215	302+20	Litigant may plead in the alternative and advance inconsistent claims or defenses, but such right does not relieve litigant of his obligation of setting forth the alternative or inconsistent claims in his pleadings in order to give notice to the opposite side of what it must meet at trial. Rules of Civil Procedure, rule 8(e) (2).	Can a litigant plead in the alternative and advance inconsistent claims or defenses?	Pleading - Memo 505 - RMM_59430.docx	ROSS-003294463-ROSS-003294464
Lyons v. Lindsey Morden Claims Mgmt., 985 S.W.2d 86	302+36(1)	An alternative statement in a pleading in conflict with other allegations in the same pleading does not constitute a judicial admission. Vernon's Ann.Texas Rules Civ.Proc., Rule 48.	Does an alternative statement in a pleading in conflict with other allegations in the same pleading constitute an admission?	Pleading - Memo 506 - RMM_59431.docx	ROSS-003294092-ROSS-003294093
Price v. Holmes, 198 Kan. 100	302+20	It is permissible for pleader to allege a cause of action in the alternative provided the alternatives are not repugnant.	"Can a pleader allege a cause of action in the alternative, provided that the alternatives are not repugnant?"	023682.docx	LEGALEASE-00151238-LEGALEASE-00151239
Carlson v. Hannah, 6 N.J. 202	308+92(1)	The power of an agent to bind his principal is limited to such acts as are within his actual or apparent authority.	Is the power of an agent to bind is his principal limited?	041457.docx	LEGALEASE-00151256-LEGALEASE-00151257
Int'l Bhd. of Elec. Workers, Local Union 824 v. Verizon Florida, 803 F.3d 1241	231H+1591	It is true that an arbitrator is not free to reinterpret the parties' dispute and frame it in his own terms; nevertheless, where the parties refuse to stipulate to the issues at arbitration, the arbitrator is empowered to frame and decide all the issues in the grievance as he sees them.	Is an arbitrator free to reinterpret the parties' dispute and frame it in his own terms?	Alternative Dispute Resolution - Memo 808 - RK_59493.docx	ROSS-003278395-ROSS-003278396
Faulkenberg v. CB Tax Franchise Sys., LP, 637 F.3d 801	25T+182(2)	A party does not waive its right to arbitrate a dispute by filing a motion to dismiss or a motion to transfer venue. Fed.Rules Civ.Proc.Rule 12(b)(3), 28 U.S.C.A.	Does a motion to transfer venue constitute a waiver of the right to arbitrate?	Alternative Dispute Resolution - Memo 833 - RK_59518.docx	ROSS-003294128-ROSS-003294129
Nw. Adjustment Co. v. Payne, 173 Or. 229	8.30E+215	When an accommodation maker is required to pay note, he may recover from party accommodated amount so paid.	When is the maker of an accommodation note able to recover from the party accommodated?	Bills and Notes - Memo 637 - RK_59540.docx	ROSS-003292266-ROSS-003292268
Couret v. Conner, 118 Miss. 374	8.30E+12	That notes in controversy between an assignor and an assignee were payable in Mississippi was immaterial to their rights where the assignment was governed by the law of Louisiana, as the contract of assignment was separate and distinct from that evidenced by the notes.	Does the law of the place where the note is payable govern its interpretation?	009794.docx	LEGALEASE-00151615-LEGALEASE-00151616
Jacobsen v. Bunker, 699 P.2d 1208	8.30E+10	Legal effect of promissory notes is governed by the law of the jurisdiction where they are executed and delivered.	Which law governs the legal effect of a promissory note?	Bills and Notes - Memo 865 - RK_59546.docx	ROSS-003293535-ROSS-003293536
Thorp, Smith & Hanchett v. Craig, 10 Iowa 461	83E+675	The law of the place where a bill of exchange is payable governs as to the allowance of days of grace.	Which law governs the days of grace with respect to a bill of exchange?	009798.docx	LEGALEASE-00151619-LEGALEASE-00151621
Bologna Bros. v. Morrissey, 154 So. 2d 455	8.30E+12	Obligation of endorser or accommodation party is governed by lex loci contractus.	Is the obligation of an accommodation party governed by lex loci contractus?	009908.docx	LEGALEASE-00151602-LEGALEASE-00151603
State ex rel. Little Prairie Special Rd. Dist. of Pemiscot Cty. v. Thompson, 315 Mo. 56	200+121	Road district, being municipal corporation, can levy general taxes on property within its boundaries for purposes of district.	Are road districts municipal corporations?	018761.docx	LEGALEASE-00151672-LEGALEASE-00151673
United States v. Story, 34 F. Supp. 571	296+10	Where a prior indorsement is forged on a pension check, which is "commercial paper", subsequent indorsers are liable to the government.	Are subsequent indorsers liable to the government when prior indorsement is forged on a pension check?	022875.docx	LEGALEASE-00151552-LEGALEASE-00151553
Int'l Turbine Serv. v. Lovitt, 881 S.W.2d 805	21+3	Affidavit verified by counsel as "true and correct to the best of his knowledge" is insufficient as an affidavit unless authorized by statute.	Is an affidavit insufficient if not authorized by a statute?	Affidavits - Memo 37 - _1_npwEa4sLPOppNd3sMd5PIRlt6quSI_J.docx	ROSS-000000170-ROSS-000000171

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Athey v. Mortg. Elec. Registration Sys., 314 S.W.3d 161	21+3	Form defects in an affidavit include the affiant's lack of personal knowledge.	Do form defects in an affidavit include the affiants lack of personal knowledge?	Affidavits - Memo 45 - _1CfW8QWcC3xYHdaiQrOvVTw21_32qR_1X.docx	ROSS-000000187-ROSS-000000188
Mathews v. Diaz, 426 U.S. 67	24+116	A legitimate distinction between citizens and aliens may justify attributes and benefits for one class not accorded to the other.	Is there a legitimate distinction between aliens and citizens?	"Aliens, Immigration and Citizenship - Memo 40 - RK_60127.docx"	ROSS-003281557-ROSS-003281558
Sterling & Snapp v. Bender, 7 Ark. 201	83E+426	A bill or note indorsed in blank is transferable by delivery only, and so long as the indorsement continues in blank, it makes the bill or note in effect payable to bearer.	What happens when an instrument or note is indorsed in blank?	010038.docx	LEGALEASE-00152345-LEGALEASE-00152346
Corinth, Shiloh & Savannah Tpk. Co. v. Gooch, 113 Miss. 50	8.30E+76	A written order drawn by a company in favor of creditor for payment of money due company from another was a "bill of exchange" under the definition of Code 1906, S 4002.	What is a bill of exchange?	Bills and Notes -Memo 211 -DB_59650.docx	ROSS-003309696
In re Rountree, 330 B.R. 166	51+3403(1)	Because the policy behind the Bankruptcy Code is to give the debtor a fresh start, the plaintiff has the burden of proving that a debt is nondischargeable. 11 U.S.C.A. S 523(a); Fed.Rules Bankr.Proc.Rule 4005, 11 U.S.C.A.	Who shares the burden of proof that the debt is excluded from discharge?	010278.docx	LEGALEASE-00152321-LEGALEASE-00152322
In re AppOnline.com, 321 B.R. 614	83E+335	Under New York law, promise to pay in promissory note is not "unconditional," as required for note to be negotiable, if instrument states that it is subject to or governed by any other agreement. N.Y.McKinney's Uniform Commercial Code S 3-105(2)(a).	"Is it necessary for a promissory note to be unconditional, if the instrument states that it is subject to or governed by any other agreement?"	010693.docx	LEGALEASE-00152576-LEGALEASE-00152577
F.D.I.C. v. Skotzke, 881 F. Supp. 364	83E+335	Mere fact that promissory note was collateralized by mortgage did not affect its status as negotiable instrument.	Does the mere fact that a note is collateralized by a mortgage affect its status as a negotiable instrument?	010698.docx	LEGALEASE-00152590-LEGALEASE-00152591
Kinzig v. First Fid. Bank, N.A., 277 N.J. Super. 255	172H+591	Virgule, as used in payee portion of check, permitted payment to either of the two payees listed and required endorsement of only one payee. N.J.S.A. 12A:3-116; 13 Pa.C.S.A. S 3116 (1992).	Can payment be made by either payee if virgule is used?	010756.docx	LEGALEASE-00152469-LEGALEASE-00152470
NEBCO v. Adams, 270 Neb. 484	195+1	A "guaranty" is a contract by which the guarantor promises to make payment if the principal debtor defaults.	When the principal debtor defaults can the guarantor make payment?	010838.docx	LEGALEASE-00152443-LEGALEASE-00152444
Valencia v. Anderson Bros. Ford, 617 F.2d 1278	172H+1322	Truth in Lending Act is to be liberally construed to achieve goal of meaningful disclosure of terms and conditions of credit before consummation of consumer credit transaction. Truth in Lending Act, SS 102, 128(a)(10), 15 U.S.C.A. SS 1601, 1638(a)(10).	Is TILA only a disclosure statute that does not substantively regulate consumer credit?	014038.docx	LEGALEASE-00152623-LEGALEASE-00152624
Twp. of Jefferson v. Dir., Div. of Taxation, Dep't of Treasury, 26 N.J. Tax 1	371+2632	For purposes of determining the validity of the average ratios of assessed value to true value of real property contained in table of equalized valuations promulgated by Director of Taxation for the apportionment of school aid, equalized true value is not required to be actually or accurately representative of true market value, but rather the equalization table is a practical approximation. N.J.S.A. 54:1-35.1 et seq.	Does equalized true value actually or accurately represent true market value?	Exchange Of Property - Memo 34 - KK_60083.docx	ROSS-003298727-ROSS-003298728
Jones v. Gould, 741 F.2d 220	200+79.1	Once one claiming establishment of a road by adverse possession establishes title by adverse possession landowner has the burden of showing abandonment.	Who has the burden of showing abandonment when title by adverse possession is established?	018687.docx	LEGALEASE-00152501-LEGALEASE-00152502
Weeder v. Cent. Cmty. Coll., 269 Neb. 114	307A+561.1	An affirmative defense may be asserted in a 12(b)(6) motion filed pursuant to the Nebraska Rules of Pleading in Civil Actions when the defense appears on the face of the complaint.	Will an affirmative defense be asserted in a motion when the defense appears on the face of the complaint?	Pretrial Procedure - Memo # 8857 - C - MS_59854.docx	ROSS-003283113-ROSS-003283114

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Tedesco, 175 Conn. 279	308+92(1)	A principal may delegate to agent all that he himself can do except acts peculiarly personal or acts regulated by statute which are required to be performed personally.	"Can a principal delegate all acts, that he can do himself?"	041500.docx	LEGALEASE-00152269- LEGALEASE-00152270
Whitford v. Gaskill, 119 N.C. App. 790	308+100(0.5)	Power of attorney must expressly confer authority to give gift of real property.	Should authority be expressly conferred in a Power of Attorney?	Principal and Agent - Memo 64- KC_60271.docx	ROSS-003283311
Daskam v. Ullman, 74 Wis. 474	38+97	By the assignment of a contract in writing at its face value, the assignor impliedly warrants that the maker is liable, unless the contrary clearly appears.	Does the assigner of an instrument impliedly warrant validity?	Bills and Notes - Memo 843 - RK.docx	LEGALEASE-00042550- LEGALEASE-00042551
Mariner's Bank v. Abbott, 28 Me. 280	157+423(8)	Though, if a promise in a note is jointly and severally to pay, it cannot be shown to be otherwise, when the creditor extends the time of payment to one of several debtors the others may prove by parole that they are sureties merely, and that the extension was injurious to them.	Is parole proof admissible to show that a part is a surety?	009828.docx	LEGALEASE-00153549- LEGALEASE-00153550
Perrone v. Gen. Motors Acceptance Corp., 232 F.3d 433	172H+1537	Detrimental reliance is element of claim for actual damages under either the Truth in Lending Act (TILA) or Consumer Leasing Act (CLA). Truth in Lending Act, SS 130(a)(1), 185, 15 U.S.C.A. SS 1640(a)(1), 1667d.	Is detrimental reliance an element of Truth in Lending Act (TILA) claims for actual damages?	009833.docx	LEGALEASE-00153555- LEGALEASE-00153556
Pope & Ballance v. Righter-Parry Lumber Co., 162 N.C. 206	83E+334	Under Revisal 1905, S 2151, providing that a negotiable instrument must contain an unconditional promise to pay a sum certain in money, a note which recited that it was subject to the provisions of a deed is conditional and not negotiable; sections 2153, 2154, defining an unconditional promise and specifying what facts do not affect negotiability, not curing the defect.	What are the requirements of a negotiable instrument?	Bills and Notes - Memo 918 - RK_60714.docx	ROSS-003296132-ROSS- 003296133
Byrd Printing Co. v. Whitaker Paper Co., 135 Ga. 865	83E+768	A bank check is a contract in writing, by the execution and delivery of which the drawer contracts with the payee that the bank will, on presentation, pay to him or his order the amount designated, and is not a mere request upon a third person to pay, and in a suit by the payee thereon it is not necessary to allege the consideration for which the check was given or set forth any further showing than that plaintiff was named as payee, and that the check had been presented for payment, and payment refused.	Is a check a contract?	009914.docx	LEGALEASE-00153668- LEGALEASE-00153669
Taylor v. Domestic Remodeling, 97 F.3d 96	172H+1581	By commencing district court action to exercise their rescissory rights under the TILA prior to expiration of extended three-year period for rescinding home improvement contract, consumers gave required statutory notice of rescission, though consumers did not mail copy of their summons and complaint to defendant until some time later; filing of complaint itself constituted statutory notice of rescission under the TILA. Truth in Lending Act, S 125(f), 15 U.S.C.A. S 1635(f); 12 C.F.R. S 226.23(a)(3).	Does filing of a complaint constitute statutory notice of rescission?	013675.docx	LEGALEASE-00152969- LEGALEASE-00152970
Caldwell v. Bd. of Trustees Broward Cmty. Coll., 858 So. 2d 1199	141E+990	Public community colleges are not part of the executive branch of state government. West's F.S.A. S 1004.67.	Are community colleges parts of the executive branch of state government?	017051.docx	LEGALEASE-00152788- LEGALEASE-00152789
Ray v. Wilmington Coll., 106 Ohio App. 3d 707	141E+990	Private schools have broad discretion in making rules and setting up procedures to enforce those rules.	Does a private school have broad discretion in making rules?	017062.docx	LEGALEASE-00152834- LEGALEASE-00152835

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Martin-Trigona v. Univ. of New Hampshire, 685 F. Supp. 23	141E+990	Traditionally, universities possess broad discretion in administration of their internal affairs.	Do universities possess broad discretion in administration of internal affairs?	017070.docx	LEGALEASE-00152868-LEGALEASE-00152869
Cleveland, C., C. & I. Ry. Co. v. Wynant, 114 Ind. 525	200+181	The mere fact that an object is in a highway in violation of the statute does not necessarily make the owner liable for damages resulting from fright which the object may have occasioned to horses, but there must have been some natural causative connection between the violation of the statute and the frightening of the horses.	"Is there a natural and causative connection between the violation of a statute, and the frightening of a horse?"	Highways -Memo 352-SB_60746.docx	ROSS-003323607-ROSS-003323609
Hawkeye Foodservice Distribution v. Iowa Educators Corp., 812 N.W.2d 600	307A+681	The only issue when considering a motion to dismiss is the petitioner's right of access to the district court, not the merits of his allegations.	What is the only issue when considering a motion to dismiss?	Pretrial Procedure - Memo # 9121 - C - PC_60465.docx	ROSS-003294047-ROSS-003294048
Randles v. Moore, 780 So. 2d 158	307A+561.1	An affirmative defense may be a basis for a motion to dismiss only if it appears within the four corners of the complaint.	Can an affirmative defense be a basis for a motion to dismiss only if it appears within the four corners of the complaint?	038405.docx	LEGALEASE-00152949-LEGALEASE-00152950
Hyosung Am. v. Sumagh Textile Co., 934 F. Supp. 570	308+8	Under New York law, elements of agency relationship are manifestation by principal that agent shall act for him, acceptance of undertaking by agent, and understanding between parties that principal is to be in control of undertaking; of these, critical element is control of agent by principal.	What are the elements of agency?	Principal Agent- Memo 27 - AM_60514.docx	ROSS-003292919-ROSS-003292920
Advanced Neurological Care, P.C. v. State Farm Mut. Auto. Ins. Co., 38 Misc. 3d 750	308+47	Every contract of agency carries with it an implied obligation on the part of the principal to do nothing that would thwart the effectiveness of the agency.	Does the principal have any implied duty in an agency?	Principal Agent- Memo 31-AM_60516.docx	ROSS-003281319-ROSS-003281320
Polley v. Plainsun Corp., 7 Misc. 2d 605	308+47	Every contract of agency carries with it an implied obligation on the part of the principal to do nothing that would thwart the effectiveness of the agency.	Does the principal have any implied duty in an agency?	041301.docx	LEGALEASE-00153125-LEGALEASE-00153126
Swindell v. Latham, 145 N.C. 144	308+92(1)	An agent can only contract for his principal within the limits of his authority, and one dealing with an agent with limited powers must generally inquire as to the extent of his authority.	Can an agent contract for his principal?	Principal and Agent - Memo 234 - KC_60527.docx	ROSS-003293164-ROSS-003293166
Emmons v. Dowe, 2 Wis. 322	308+92(1)	An estoppel in pais or by the conduct of a party, may be created as effectually by the acts or conduct of the agent as of the principal; but such acts of the agent, to conclude his principal, must be within the scope of his authority.	Is Estoppel in pais created by the act of an agent?	041550.docx	LEGALEASE-00153489-LEGALEASE-00153490
Messenger Courier Ass'n of Americas v. California Unemployment Ins. Appeals Bd., 175 Cal. App. 4th 1074	308+92(1)	Relationships of agency usually contemplate three parties-the agent, the principal, and third parties with whom the agent interacts in some manner.	How many parties does the relationship of agency contemplate?	Principal and Agent - Memo 294 - KC_60587.docx	ROSS-003282469-ROSS-003282470
In re Lason, 314 B.R. 296	308+92(1)	Under Georgia law, person acting as agent has ability to create obligations for the principal to third parties.	Can an agent create obligations for the principal to third parties?	Principal and Agent - Memo 299 - KC_60662.docx	ROSS-003282806-ROSS-003282807

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German v. Com., 410 Mass. 445	371+2001	"Tax" is revenue-raising exaction imposed through generally applicable rates to defray public expense; nature of monetary exaction will be decided by studying its operation rather than how it has been characterized by legislature.	Is tax imposed through generally applicable rates?	045998.docx	LEGALEASE-00153269-LEGALEASE-00153270
Pray v. N. Liberties, 31 Pa. 69	371+2001	A tax is generally understood to mean the imposition of a duty or impost for the support of the government. In that sense it is understood all the world over as contradistinguished from a mere municipal or corporate charge for improvement of property within the corporation or municipal bounds.	Is tax an imposition of a duty or impost for the support of government?	046045.docx	LEGALEASE-00153390-LEGALEASE-00153391
Wyeth v. Levine, 555 U.S. 555	360+18.65	Drug user's state law failure-to-warn claims against manufacturer of antihistamine that was used to treat nausea, for failing to adequately warn of dangers of administering drug intravenously using an IV-push, rather than IV-drip, methodology, were not preempted by federal law on theory that requiring manufacturer to comply with state law duty to provide stronger warning about IV-push administration, after the Food and Drug Administration (FDA) had previously approved warning label placed on drug, would obstruct purposes and objectives of federal drug labeling regulation; if Congress thought state-law suits posed an obstacle to its objectives, it surely would have enacted express pre-emption provision at some point during the 70-year history of the Federal Food, Drug, and Cosmetic Act (FDCA). U.S.C.A. Const. Art. 6, cl. 2; Federal Food, Drug, and Cosmetic Act, S 1 et seq., 21 U.S.C.A. S 301 et seq.	Does any act prohibit against the manufacture or shipment in interstate commerce of any adulterated or misbranded food or drug?	Adulteration - Memo 8 _1rbGMvISJxTWUJrHeEM oeejQvlgips-kj.docx	ROSS-000000114-ROSS-000000115
Kern v. Treeline Golf Club, 433 S.W.2d 215	21+9	Even though affidavit may be made by attorney for party it is necessary that affidavit set out authority by which it is made. Rules of Civil Procedure, rule 14.	Is it necessary that the affidavit set out the authority by which such affidavit is made?	Affidavits - Memo 74 - _1b6UqRZJshUJZ7zqfB5gr cjHTcdS7Vlgq.docx	ROSS-000000243-ROSS-000000245
Riggs v. Price, 3 Greene 334	83E+361	A note for a certain sum in property is not negotiable at common law; but such a note is assignable under the statute of Iowa; and when payable to bearer may be sued in the name of any holder.	Can a note payable to bearer be sued in the name of the holder?	Bills and Notes - Memo 945 - RK_60805.docx	ROSS-003278642
Packer v. Roberts, 140 Ill. 9	83E+481	Note cannot be assigned by separate instrument, and where payee has by deed of assignment, duly assigned all his property, legal title to note is not thereby transferred to assignee so as to preclude payee from suing thereon in his own name for use of assignee.	Can title to a promissory note be transferred by a separate instrument in writing?	009949.docx	LEGALEASE-00154002-LEGALEASE-00154003
Frank Maddox Realty & Mortg. v. First Nat. Bank of Atlanta, 196 Ga. App. 114	83E+481	Because there was a merger of the holder's predecessor in interest into the holder, no written assignment of promissory note was required to be produced in order for holder to recover on the note.	Is a written assignment required to be produced to show the merger of the appellee's predecessor in interest?	009957.docx	LEGALEASE-00153780-LEGALEASE-00153781
Telles v. Dewind, 140 A.D.3d 1701	129+107	Conduct does not have to take place in public in order for a person to be found guilty of disorderly conduct, so long as the person recklessly creates a risk of a public disturbance. McKinney's Penal Law S 240.20(1).	Is a person guilty of disorderly conduct if he causes annoyance?	Disorderly Conduct-Memo 108-IS_61205.docx	ROSS-003281215-ROSS-003281216
Alabama Great S. R. Co. v. Gilbert, 6 Ala. App. 372	302+26	In a pleading, as a general rule, words are to be taken in their ordinary and popular sense, unless it plainly appears that they were used in a different sense.	Are common or popular words construed in their popular sense?	Pleading - Memo 535-RMM_61223.docx	ROSS-003281747-ROSS-003281748

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Korn v. Ray, 434 S.W.2d 798	302+72	Prayer for relief is not part of pleading, and omission thereof does not oust court of jurisdiction of subject matter.	Is the prayer for relief a part of the pleading?	023747.docx	LEGALEASE-00154577-LEGALEASE-00154578
Rucker v. Taylor, 828 N.W.2d 595	307A+560	Good cause for failure to timely accomplish service of process requires an examination of all of the surrounding facts to determine if they reveal understandable mitigating circumstances, for purposes of a motion to dismiss. I.C.A. Rule 1.302(5).	"When the grounds for the motion to dismiss are based on an alleged failure to provide timely service within the required time frame, is a court permitted to consider facts outside the pleadings?"	Pretrial Procedure - Memo # 9367 - C - TJ_61055.docx	ROSS-003305904-ROSS-003305905
Dubois v. Corroon & Black Corp., 12 Cal. App. 4th 1689	307A+581	Although public policy regards with favor trial on merits, that policy is not absolute; countervailing, though subordinate, principle to foreclose on reasonable delay and compel diligent prosecution of litigation, in a proper case, will take precedence. West's Ann.Cal.C.C.P. S 583.420.	Is public policy regards with favor trial on merits absolute?	Pretrial Procedure - Memo # 9443 - C - NS_60938.docx	ROSS-003298126-ROSS-003298127
Szilagyi v. Testa, 99 Nev. 83	307A+563	Court may dismiss a complaint for failure to prosecute or for violation of a court order.	Can court dismiss a complaint for failure to prosecute or for violation of a court order?	Pretrial Procedure - Memo # 9478 - C - TJ_61089.docx	ROSS-003293338-ROSS-003293339
United States v. Malik, 16 F.3d 45	306+33	Absence of explicitly threatening language does not preclude finding of "threat," for purposes of federal statute making it offense to mail threatening communications. 18 U.S.C.A. S 876.	Does the absence of explicitly threatening language preclude the finding of a threat?	Threats - Memo #64 - C - LB_61265.docx	ROSS-003280616-ROSS-003280617
Native Ecosystems Council v. Weldon, 697 F.3d 1043	411+8	Forest plans are designed to manage forest resources by balancing the consideration of environmental and economic factors. National Forest Management Act of 1976, SS 6, 12(a), 16 U.S.C.A. S 1604.	How are forest plans designed to manage forest resource?	Woods and Forests - Memo 82 - RK_61328.docx	ROSS-003323668-ROSS-003323669
Harper v. State Farm Mut. Auto. Ins. Co., 484 So. 2d 737	8.30E+294	A "check" is a negotiable instrument, defined in relevant part as a draft, other than a documentary draft, payable on demand and drawn on a bank, and inherent in its definition, a check is a promise to pay which can be taken by the bearer or indorsee and cashed or converted on demand into federal reserve notes equaling the value stated on the check. West's Ga.Code Ann. S 11-3-104(f).	Is check a type of negotiable instrument?	Bills and Notes - Memo 20 - KC_61943.docx	ROSS-003279989-ROSS-003279990
Wrenn v. Lawrence Cotton Mills, 198 N.C. 89	157+423(6)	Persons writing names on backs of notes are secondarily liable as indorsers, in absence of words clearly indicating different intent, and parol evidence of indorsement thereof as comakers, guarantors, or sureties is inadmissible (C.S. SS 3044, 3045).	Can a person be deemed to be an indorser unless he clearly indicates by appropriate words?	Bills and Notes-Memo 1214-PR.docx	LEGALEASE-00044606-LEGALEASE-00044607
Rudisell v. Fifth Third Bank, 622 F.2d 243	172H+1561	Rescission under provision of Truth in Lending Act is an equitable remedy and court may condition return of monies to debtor upon return of property to creditor. Truth in Lending Act, S 125 as amended 15 U.S.C.A. S 1635.	Is rescission an equitable remedy?	013746.docx	LEGALEASE-00155629-LEGALEASE-00155630
In re Gunn, 387 B.R. 856	172H+1241	Under Alabama law, loan transaction in which terms of pawn ticket executed by pledgor and pawnshop provided that pledgor would receive \$500.00 loan due in 30 days at a specified interest rate in exchange for granting pawnshop a security interest in her automobile, and further provided for redemption of the pledged automobile for a fixed price after a fixed period of time, was a "pawn transaction." Ala.Code 1975, S 5-19A-2(3).	What is a pawn transaction?	Consumer Credit - Memo 4 - AM_61528.docx	ROSS-003305937-ROSS-003305938
Wright v. State of Ga., 373 U.S. 284	282+160	One cannot be punished for failing to obey command of police officer if that command is itself violative of Constitution.	Can a person be punished for failing to obey the command of an officer if the command violates the Constitution?	014377.docx	LEGALEASE-00155496-LEGALEASE-00155497

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Martin v. Powers, 505 S.W.3d 512	217+1001	The basic concept of insurance involves an insurer who, in exchange for a premium, assumes certain risks that otherwise would be the obligation of the insured.	What is the basic concept or principle of insurance?	019562.docx	LEGALEASE-00154966- LEGALEASE-00154967
Dep't of Soc. Servs. v. Romero, 609 P.2d 1323	307A+602	Whether delay is ground for the dismissal of an action is to be determined on totality of circumstances; this includes the conduct of both parties and the opportunity each has had to move the case forward if they so desire, and also what, if any, difficulty or prejudice may have been caused to the other party by the delay, and most important, whether it appears that any injustice has resulted.	Should delay as a ground for the dismissal of an action be determined on totality of circumstances?	Pretrial Procedure - Memo # 9688 - C - SK_61589.docx	ROSS-003282584-ROSS- 003282585
O'Donnell v. Union Paving Co., 121 Pa. Super. 68	101+2314	Corporation intrusting manager with general supervision of particular branch of its business invests him with power of general agent coextensive with business intrusted to his care, and is bound by his contracts on its behalf made within apparent scope of authority.	"If the principal holds the agent out to the world as a general agent, would any contract made within the scope of the business bind the principal?"	041618.docx	LEGALEASE-00155665- LEGALEASE-00155666
Dewey Fish Co. v. Dep't of Labor & Indus. of State of Washington, 181 Wash. 95	413+101	Workmen's Compensation Law applies to all within limits of territorial jurisdiction of state, except those clearly excluded by law. Rem.Rev.Stat. S 7673 et seq.	Does the Act apply within the territorial jurisdiction of the state?	048634.docx	LEGALEASE-00155526- LEGALEASE-00155527
Scott v. City of Seymour, 659 N.E.2d 585	21+9	When affiant makes conclusion of fact, it must appear that affiant had opportunity to observe and did observe matters about which he or she testifies.	Is it necessary that the affiant had an opportunity to observe the matters about which he or she testifies?	Affidavits - Memo 70 - _1m7axEnxE43aYcIRCcGq WgldCKa-cGgfN.docx	ROSS-000000235-ROSS- 000000236
Sealey v. Johanson, 175 F. Supp. 3d 681	156+52(1)	Equitable estoppel in Mississippi is an extraordinary remedy and should only be invoked to prevent unconscionable results.	Should equitable estoppel only be invoked to prevent unconscionable results?	017747.docx	LEGALEASE-00155861- LEGALEASE-00155862
Major League Baseball v. Morsani, 790 So. 2d 1071	156+52(1)	Prime purpose of doctrine of equitable estoppel is to prevent a party from profiting from his or her wrongdoing.	Is equitable estoppel meant to prevent a party from profiting from his or her wrongdoing?	Estoppel - Memo #121 - C - CSS_62023.docx	ROSS-003294059-ROSS- 003294060
Highland Paving Co. v. First Bank, 227 N.C. App. 36	302+34(2)	Where both general and specific allegations are made respecting same matter, latter control.	"Where both general and specific allegations are made respecting the same matter, which controls?"	023789.docx	LEGALEASE-00156082- LEGALEASE-00156083
Gerbino v. Isle of Paradise B, 149 So. 3d 69	118A+328	Trial court could not dismiss with prejudice, for failure to timely file fourth amended complaint, condominium unit owner's declaratory judgment action seeking to determine whether private docks were built on common property of the condominium association, without considering the Kozel factors for determining if the ultimate sanction of dismissal should be imposed for an attorney's neglect; trial court gave no reason for the dismissal other than failure to timely amend the complaint which, alone, was insufficient to warrant dismissal with prejudice, and without trial court's analysis of the Kozel factors, District Court of Appeal could not review trial court's discretionary decision.	"Once a court has dismissed a complaint with leave to amend, it cannot subsequently dismiss with prejudice for failure to timely amend unless what?"	024648.docx	LEGALEASE-00155900- LEGALEASE-00155901
Patel v. Home Depot USA, 2012 IL App (1st) 103217	302+308	If a claim is based on a written document, the document itself must be attached to the pleading as an exhibit; the exhibit is part of the pleading for purposes of a motion to dismiss. S.H.A. 735 ILCS 5/2-615.	"If a claim is based on a written document, should the document itself be attached to the pleading as an exhibit?"	Pretrial Procedure - Memo # 10376 - C - AC_62101.docx	ROSS-003280541

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Country Meadows Convalescent Ctr. v. Utah Dep't of Health, Div. of Health Care Fin., 851 P.2d 1212	198H+511	Nursing home operator's petition for review of decision by Utah Department of Health (UDOH) denying Medicaid reimbursement for entire costs plus 10% contractor's fee, on ground that contractor that built facility was related entity, was subject to dismissal for failure to prosecute as result of operator's failure to act on case for over five years, despite UDOH's own failure to move review proceedings forward and prejudice that dismissal was cause to operator's other pending reimbursement claims. Rules Civ.Proc., Rule 41(b); U.C.A.1953, 26-23-2.	"Should court consider what each party has done to move the case forward, when determining whether to dismiss an action for failure to prosecute?"	025371.docx	LEGALEASE-00156405- LEGALEASE-00156406
People v. DeRouen, 38 Cal. App. 4th 86	67+6	Defendant could be convicted of burglary in the first degree based on his theft of property from vacation homes, notwithstanding his claim that homes were not "inhabited dwellings" within meaning of burglary statutes because no one lived at homes at time of commission of offense and there was no evidence that any of the victims intended to return to homes for more than overnight visit in the future; occupant of a vacation home reasonably expects same protection from unauthorized intrusions as occupant of any other residence. West's Ann.Cal.Penal Code SS 459, 460.	Are vacation homes considered dwellings under burglary statutes?	013024.docx	LEGALEASE-00156409- LEGALEASE-00156410
Jean Pierre v. State, 635 S.W.2d 548	67+7	Concept of "ownership," for purposes of proving a burglary, is different than commonly-understood concepts of ownership under general property law: ownership means any possession which is rightful as against the burglar and is satisfied by proof of special or temporary ownership, possession, or control.	Is ownership in burglary different from ownership in property law?	Burglary - Memo 273 - RK_62276.docx	ROSS-003281518-ROSS- 003281519
U.S. v. Thompson, 118 F. Supp. 2d 723	258A+724	Entry through unobstructed open window or door will not constitute "breaking" that will support charge of burglary. MCM 1984, Pt. IV, P 55, subd. c.	Does entry through an open window constitute burglary?	013092.docx	LEGALEASE-00156575- LEGALEASE-00156576
State v. Miles, 160 A.3d 23	110+44	Intent to commit a crime, an overt act towards its commission, failure of consummation, and apparent possibility of commission of crime are requisite elements of an attempted crime. Section 556.150 RSMo 1969, V.A.M.S.	Is entry necessary for attempted burglary?	013108.docx	LEGALEASE-00156559- LEGALEASE-00156560
McEver v. State, 352 So. 2d 1213	67+9(0.5)	Though nonconsent is not a separate element of crime of breaking and entering with a felonious intent, it must be proven as part of element of breaking.	Is nonconsent an element of breaking?	Burglary - Memo 299 - RK_62301.docx	ROSS-003308165
Cartey v. State, 337 So. 2d 835	67+9(1)	Breaking of an inner door or structure within open building constituted a "breaking" for purposes of burglary statute. West's F.S.A. S 810.05.	Does breaking of an interior door constitute burglary?	013127.docx	LEGALEASE-00156524- LEGALEASE-00156525
State v. Goble, 5 Ohio App. 3d 197	37+144	Under felonious assault statute, any injury, regardless of its gravity or duration, may constitute physical harm. R.C. S 2901.01(C).	"What type of injury constitutes ""physical harm"" under the menacing statute?"	046675.docx	LEGALEASE-00156492- LEGALEASE-00156493
All. for Wild Rockies v. Kruger, 950 F. Supp. 2d 1172	411+8	Forest plan amendments are permitted by National Forest Management Act (NFMA) and can modify the plan in any way if the Forest Supervisor determines the changes will be insignificant to the plan's overall objectives. National Forest Management Act of 1976, SS 6, 12(a), 16 U.S.C.A. S 1604(f)(4); 36 C.F.R. S 219.10(f) (2000).	Can Forest Plans be amended?	Woods and Forests - Memo 6 - KC_62522.docx	ROSS-003293608-ROSS- 003293609

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
E.L. Husting Co. v. Coca-Cola Co., 194 Wis. 311	106+8	Until contrary appears, state statute is presumed to be for regulation and control of persons and property within such state.	Is a legislation presumed to only regulate the inhabitants or persons within that state or country?	Aliens Immigration and_1AReyZ3Z0Kyc1egmVHyWfoYSswUIFRIXn.docx	ROSS-000000274-ROSS-000000275
LVNV Funding v. Mavaega, 527 S.W.3d 128	38+90	An assignee steps into the shoes of its assignor; it acquires no greater rights than those held by the assignor at the time of the assignment.	Can an assignee acquire greater rights than which the assignor has?	Bills and Notes - Memo 1219 - JK.docx	LEGALEASE-00046462-LEGALEASE-00046463
Thrall v. Newell, 19 Vt. 202	95+82	The defendant executed to the plaintiff a written assignment in these words: "I hereby assign to R., a note in my favor against W. and H. dated 13th Nov., 1838, for one hundred and fifty dollars, payable in one year from date, with use, for value received." Held, that the words "for value received" were not merely descriptive of the note assigned, but that, prima facie at least, they imported a sufficient legal consideration for the assignment.	"Do the words ""value received"" furnish evidence of consideration for an assignment?"	Bills and Notes - Memo 1255 - RK_62544.docx	ROSS-003307537-ROSS-003307538
Stiles v. Farrar, 18 Vt. 444	83E+484	The interest of the payee in a note not negotiable may be assigned; and if assigned, and notice thereof is given to the maker, and an action is commenced upon the note in the name of the payee for the benefit of the assignee, the equitable interest of the assignee will be protected at law. This is not now an open question.	Can a note which is not negotiable be assignable?	Bills and Notes - Memo 1256 - RK.docx	LEGALEASE-00046494-LEGALEASE-00046495
Bodnar v. Matheron, 154 N.Y.S.2d 596	83E+426	Checks drawn to named payee and endorsed by him in blank are payable to bearer. Negotiable Instruments Law, S 64.	"Whether checks drawn to a payee and endorsed by him in blank, payable to bearer?"	Bills and Notes-Memo 1276-ANM_63202.docx	ROSS-003323620
Bank of U.S. v. Tyler, 29 U.S. 366	8.30E+10	Where a note was made and signed and payable in Kentucky, the obligations and rights of the parties must depend on the laws of that state.	Which law governs the obligations and rights of the parties to a note?	010928.docx	LEGALEASE-00157938-LEGALEASE-00157939
Fredenburg v. Lyon Lake M.E. Church, 37 Mich. 476	156+52(1)	Estoppels never arise from ambiguous facts, but must be established by such as are unequivocal and not susceptible of two constructions.	Does estoppel arise from ambiguous facts?	Estoppel - Memo #164 - C - CSS_62568.docx	ROSS-003293555-ROSS-003293556
Marrero v. McDonnell Douglas Capital Corp., 200 Mich. App. 438	156+52(5)	Doctrine of estoppel should be applied only where facts are unquestionable and wrong to be prevented undoubted.	Should estoppel be applied only where the facts are unquestionable and the wrong to be prevented undoubted?	Estoppel - Memo #190 - C - CSS_63214.docx	ROSS-003293521-ROSS-003293522
Adams v. First Nat. Bank of Bells/Savoy, 154 S.W.3d 859	322H+84	A conveyance of an interest in real property must be in writing, signed by the grantor, and delivered to the grantee. V.T.C.A., Property Code S 5.021.	Should conveyance of an interest in real property be in writing?	018305.docx	LEGALEASE-00156923-LEGALEASE-00156924
Minnesota Humane Soc. v. Minnesota Federated Humane Societies, 611 N.W.2d 587	307A+690	Because a dismissal with prejudice is the most punitive sanction that can be imposed for failure to prosecute, it should be granted only under exceptional circumstances.	Should a dismissal with prejudice be granted only under exceptional circumstances?	025121.docx	LEGALEASE-00156941-LEGALEASE-00156942
Risse v. APV Anderson Bros., 714 S.W.2d 922	307A+693.1	Dismissal for improper venue does not preclude party from filing action in proper forum. V.A.M.R. 67.03.	Does dismissal for improper venue not preclude a party from filing action in a proper forum?	025222.docx	LEGALEASE-00157311-LEGALEASE-00157312
Ballen v. Aero Mayflower Transit Co., 144 A.D.2d 407	307A+693.1	Counterclaims against plaintiff may be adjudicated after plaintiff's action against defendant is dismissed on merits.	Can counterclaims against a plaintiff be adjudicated after a plaintiff's action against a defendant is dismissed on merits?	Pretrial Procedure - Memo # 11011 - C - TM_64130.docx	ROSS-003306864-ROSS-003306865

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St. Clair Intermediate Sch. Dist.t v. Intermediate Educ. Ass'n/Michigan Educ. Ass'n, 458 Mich. 540	308+1	Fundamental to the existence of an agency relationship is the right to control the conduct of the agent with respect to the matters entrusted to him. Restatement (Second) of Agency S 14.	What is fundamental to the existence of an agency relationship?	Principal and Agent - Memo 415 - RK_63535.docx	ROSS-003307436-ROSS-003307437
Hickman v. Barclay's Int'l Realty, 5 So. 3d 804	308+1	It is the right of control, not actual control or descriptive labels employed by the parties, that determines an agency relationship.	Does the right of control determine an agency relationship?	041836.docx	LEGALEASE-00157956-LEGALEASE-00157957
Rubin v. Islamic Republic of Iran, 33 F. Supp. 3d 1003	308+1	Under Illinois law, a principal-agent relationship is a legal concept founded upon a consensual and fiduciary relationship between two parties; central question in determining such a relationship is whether principal had the right to control the activities of agent.	Is the principal-agent relationship a consensual relationship?	Principal and Agent - Memo 451 - RK_63571.docx	ROSS-003280696-ROSS-003280697
Jackson v. Searcy, 628 So. 2d 887	308+1	For agency relationship to exist, there must be meeting of the minds of principal and agent as to scope of agent's employment.	Should there be meeting of minds as to the scope of the agent's employment?	041850.docx	LEGALEASE-00157556-LEGALEASE-00157557
Indep. Gin Co. v. Parker, 19 Ariz. App. 413	308+1	Agency is question of intention of parties, as evidenced by their acts, and is not dependent upon what particular person in question is called.	Is agency a question of the intention of the parties?	Principal and Agent - Memo 497 - KK_63276.docx	ROSS-003306331-ROSS-003306332
Turley v. Kotter, 263 Pa. Super. 523	231H+23	"Servant" is agent employed by master to perform service in his affairs whose physical conduct in performance of service is controlled or is subject to right to control by master.	Is a servant an agent?	Principal and Agent - Memo 502 - KK_63281.docx	ROSS-003306448-ROSS-003306449
Przekopski v. Przekop, 124 Conn. App. 238	308+1	"Agency" is the fiduciary relationship which results from manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act.	"Is the one for whom an action is to be taken, a principal?"	Principal and Agent - Memo 503 - KK_63282.docx	ROSS-003307869-ROSS-003307870
Mavrix Photographs v. Livejournal, 873 F.3d 1045	308+1	Whether an agency relationship exists depends on the level of control a principal exerts over the agent.	Does an agency relationship depend on the level of control?	042049.docx	LEGALEASE-00157900-LEGALEASE-00157901
Leary v. Johnson, 159 Conn. 101	308+1	An essential ingredient of agency is that agent is doing something at the behest and for the benefit of the principal.	"Is doing something at the behest and benefit of the principal, an essential ingredient of agency?"	Principal and Agent - Memo 568-SB_63584.docx	ROSS-003308063-ROSS-003308064
In re Grubin, 476 B.R. 699	308+1	Under New York law, relationship of principal and agent arises when: (1) principal manifests consent to agent that agent shall act on principal's behalf, and subject to principal's control, and (2) agent consents so to act. Restatement (Second) of Agency S 1.	How does the relationship of principal and agent arise?	Principal and Agent - Memo 577-SB_63593.docx	ROSS-003318967
White v. Com. Med. Prof'l Liab. Catastrophe Loss Fund, 131 Pa. Cmwlth. 567	371+2002	Question of whether enactment is tax or regulatory measure is determined by purposes for which it is enacted and not by its title.	What determines whether an enactment is a tax or regulatory measure?	044557.docx	LEGALEASE-00157229-LEGALEASE-00157230
State v. Saltzman, 128 So. 3d 1060, 1092	3.77E+12	Terroristic threats statute does not require that recipient of threat be terrorized but, rather, requires that actor have intent to terrorize as result of threat.	Does the terroristic threats statute require that the recipient of the threat be terrorized?	046714.docx	LEGALEASE-00157341-LEGALEASE-00157342

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State v. Reynolds, 1998-Ohio-171	3.77E+24	"Personal contact," as used within harassment statute, merely requires visual or physical proximity; it does not require that the victim recognize the offender or know the identity of the person harassing her, nor does it require that the victim actually feel threatened, intimidated, or alarmed, only that the defendant act with the intent to cause such a reaction. I.C.A. S 708.7, subd. 1, par. b.	"Does personal contact as used in the harassment statute, require a physical touching or oral communication?"	046718.docx	LEGALEASE-00157363-LEGALEASE-00157364
Thurman Currie Const. v. Indus. Comm'n of Arizona, 2009 WL 3755980	413+124	Evidence supported ALJ's determination that landowner and his marital community were employers regarding construction of house and thus were subject to Workers' Compensation Act. Though landowner alleged that he was building house as private landowner, not as general contractor through his construction business, landowner co-mingled his personal and business activities to such a degree that he was engaged in his usual trade or business of homebuilding. Landowner used his experience and position with business in constructing house. In addition, landowner applied for a building activity permit under the business's name. A.R.S. S 23-902(A).	"In the Workers' Compensation Act, does the term regularly employed refer to whether the employer regularly employs workers, or whether the employee is performing a task in the employers usual trade?"	047691.docx	LEGALEASE-00157498-LEGALEASE-00157499
Mocek v. City of Albuquerque, 813 F.3d 912	129+106	Conduct which tends to disturb the peace, as element for disorderly conduct under New Mexico law, is conduct which is inconsistent with the peaceable and orderly conduct of society, and this includes an act that disturbs the peace and tranquility of the community.	What are the necessary elements of a valid disorderly conduct charge?	014303.docx	LEGALEASE-00158897-LEGALEASE-00158898
Commercial Credit Corp. v. Taylor, 448 S.W.2d 190	156+52(4)	Estoppel in pais may be invoked against a party only when he has failed to do that which he had a duty to do, and cannot be invoked because of failure to do that which he owed no duty to do.	Can estoppel in pais be invoked when a party has failed to do that which he had a duty to do?	Estoppel - Memo #171 - C - CSS_64179.docx	ROSS-003306874-ROSS-003306875
Ingram-Clevenger v. Lewis & Clark Cty., 194 Mont. 43	200+76	Board of county commissioners is given discretion to do whatever is necessary for best interests of county roads. MCA 7-14-2103, 7-14-2103(3), 7-14-2601 et seq.	Does the Board of County Commissioners have discretion to act in matters related to county roads?	Highways - Memo 77 - ANM_64049.docx	ROSS-003308999-ROSS-003309000
Evanston Ins. Co. v. Dillard Dept. Stores, 602 F.3d 610	46H+146	Exception to individual liability of partners for debts and obligations of registered limited liability partnerships (LLP) under Texas Revised Partnership Act (TRPA) did not apply to judgment entered against LLP law firm, even though conduct underlying judgment occurred prior to dissolution of LLP, where the LLP had been dissolved and its registration had expired when judgment was entered against it. Vernon's Ann.Texas Civ.St. art. 6132b-3.08 (2009).	"Is a partner in a limited liability partnership individually liable for debts and obligations arising from errors, omissions, negligence, incompetence, or malfeasance committed in the course of the partnership business by another partner?"	022608.docx	LEGALEASE-00158610-LEGALEASE-00158611
Malkan v. Gen. Transistor Corp., 27 Misc. 2d 275	2+8(4)	Prayer for permanent and temporary injunctions restraining corporation from exercising its option to buy stockholder's shares of stock did not render complaint subject to dismissal on ground that there was a prior action pending in which stockholder sought to have stock option agreement rescinded and nullified, when complaint contained no allegations upon basis of which affirmative relief with respect to stock option could be obtained.	Is a complaint tested by the prayer for relief?	023821.docx	LEGALEASE-00158498-LEGALEASE-00158499

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Williams v. Nash, 428 So. 2d 96	307A+561.1	In those instances in which face of complaint fails to show that action is barred by affirmative defense, it may not be raised by a motion to dismiss but must be raised by an answer. Rules Civ.Proc., Rules 8(c), 12(b).	Will an affirmative defense be raised by a motion to dismiss or by an answer?	Pretrial Procedure - Memo # 10779 - C - NC_63646.docx	ROSS-003284597
Mohiuddin v. Doctors Billing & Mgmt. Sols., 196 Md. App. 439	307A+693.1	A court's words "without prejudice" in dismissing a claim permit a refiling; the words "with prejudice" prohibit refiling. Md.Rule 2-322(b).	"Does a court's words ""without prejudice"" in dismissing a claim permit a refiling?"	025733.docx	LEGALEASE-00158556-LEGALEASE-00158557
Briggs v. Toyota Mfg. of Texas, 337 S.W.3d 275	307A+561.1	Affirmative defense should be raised through a motion for summary judgment or proven at trial, not through a motion to dismiss. Vernon's Ann.Texas Rules Civ.Proc., Rule 166a.	Can an affirmative defense be raised through a motion for summary judgement or proven at trial?	Pretrial Procedure - Memo # 11071 - C - NE_63458.docx	ROSS-003293644-ROSS-003293645
Van Milligen v. Dep't of Employment Sec., 373 Ill. App. 3d 532	30+3200	Motions to dismiss based upon certain defects or defenses present a question of law, and appellate courts review rulings thereon de novo. S.H.A. 735 ILCS 5/2-619.	Would motions to dismiss present a question of law?	025954.docx	LEGALEASE-00158274-LEGALEASE-00158275
Jewett v. Town of Alton, 7 N.H. 253	308+92(3)	Where an authority is given by law to three or more persons, it may, in general, be executed by a major part of the persons to whom it is so delegated; but where corporations or individuals give an authority jointly to three or more persons, in order to bind the principals, all the agents must act.	Does authority have to be exercised by a majority when it is given to three or more people?	Principal and Agent - Memo 371 - RK_63929.docx	ROSS-003306868-ROSS-003306869
Violette v. Shoup, 16 Cal. App. 4th 611	308+3(1)	Person does not become agent of another simply by offering help or making suggestion.	Will a person become the agent of another by offering help?	Principal and Agent - Memo 384 - RK_63942.docx	ROSS-003323035
White v. Revco Disc. Drug Centers, 33 S.W.3d 713	231H+25	An agent may serve two masters simultaneously, so long as the objectives of one master are not contrary to the objectives of the other. Restatement (Second) of Agency S 226.	When can an agent serve two masters simultaneously?	Principal and Agent - Memo 467- PR_63790.docx	ROSS-003307908
Ferrentino v. Dime Sav. Bank of New York, F.S.B., 159 Misc. 2d 690	308+1	Attorney-in-fact is merely special type of agent, and death of principal revokes authority of agent and power of attorney.	Is an attorney-in-fact a special type of agent?	Principal and Agent - Memo 483 - RK_63968.docx	ROSS-003285275-ROSS-003285276
Mouawad Nat. Co. v. Lazare Kaplan Int'l Inc., 476 F. Supp. 2d 414	308+1	Under New York law, the principal's power to control the agent is an essential element of an agency relationship; the essence of control in an agency sense is in the necessity of the consent of the principal on a given matter.	Is the principal's power to control the agent essential to an agency relationship?	041952.docx	LEGALEASE-00159007-LEGALEASE-00159008

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H.S.P. v. J.K., 223 N.J. 196	24+179	Evidence supported trial court's finding that mother who sent her child from India to the United States to be cared for by his uncle did not wilfully, recklessly or with gross negligence fail to provide child with adequate food, clothing, shelter, education, medical or surgical care, as would support a finding of "abuse" or "neglect" in uncle's petition seeking findings supporting Special Immigrant Juvenile (SIJ) status for child on grounds that reunification with mother was not viable; mother was financially unable to provide better care for child, there was no showing that child's harsh physical labor while employed in India was contrary to the child labor laws of India or exposed him to danger to life or limb, and there was no showing that the death of child's siblings due to malnutrition was the result of mother's failure to provide food or medical care despite having financial ability. Immigration and Nationality Act, S 101(a)(27)(J)(i), 8 U.S.C.A. S 1101(a)(27)(J)(i); N.J.S.A. 9:6-1, 9:6-8.9(b), 9:6-8.21(c)(2), 9:6-8.46(a)(1).	"Can abused, neglected, or abandoned children seek special status to remain in the United States rather than being deported along with abusive or neglectful parents?"	006773.docx	LEGALEASE-00160340- LEGALEASE-00160341
Simbaina v. Bunay, 221 Md. App. 440	24+101	Immigration and Nationality Act (INA), which requires that a state juvenile court make specific factual findings before a minor can petition the United States Citizenship and Immigration Services for special immigrant juvenile (SIJ) status, directs the state court to enter factual findings that are advisory to a federal agency determination, but does not offend separation of powers under State Constitution; federal government has exclusive jurisdiction with respect to immigration, but state juvenile courts play an important and indispensable role in the SIJ application process, and federal government delegated this power to state juvenile courts because these courts are the appropriate forum for child welfare determinations regarding abuse, neglect, or abandonment, and a child's best interests. Immigration and Nationality Act, S 101(a)(27)(J), 8 U.S.C.A. S 1101(a)(27)(J); West's Ann.Md. Const.Declaration of Rights, Art. 8-Ç Y.	"Did Congress require that a court must find that reunification is not possible because of abuse, neglect, or abandonment?"	006858.docx	LEGALEASE-00160462- LEGALEASE-00160463
Lehndorff Geneva v. Warren, 74 Wis. 2d 369	24+116	Power of state to apply its laws exclusively to aliens is exceedingly narrow.	Is the power of a state to apply its laws exclusively to aliens narrow?	"Aliens, Immigration and Citizenship - Memo 63 - RK_64797.docx"	ROSS-003296431-ROSS-003296432
Arizona v. United States, 567 U.S. 387	24+690	Government of United States has broad, undoubted power over subject of immigration and status of aliens, resting, in part, on its constitutional power to "establish an uniform Rule of Naturalization," and its inherent power as sovereign to control and conduct relations with foreign nations. U.S.C.A. Const. Art. 1, S 8, cl. 4.	Does the federal government of United States have the power to regulate immigration?	"Aliens, Immigration and Citizenship - Memo 83 - RK_64816.docx"	ROSS-003283863-ROSS-003283864
Indiana Nat. Bank of Indianapolis v. Goss, 208 F.2d 619	8.30E+10	Under Illinois law, law of place of payment of note is the law which will govern the nature, validity, interpretation, and effect of the obligation.	Which law governs the nature and validity of a contract?	Bills and Notes - Memo 1396 - JK.docx	LEGALEASE-00049181- LEGALEASE-00049182

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Patent Title Co. v. Stratton, 89 F. 174	8.30E+10	The rights of the parties to a negotiable note made in Colorado are governed by the laws of the state (Mills' Ann.St. SS 243, 244), rather than by the general principles of the law merchant.	Does the state law govern the rights of parties to a negotiable instrument?	009644.docx	LEGALEASE-00160431- LEGALEASE-00160432
Jacobson v. Fed. Deposit Ins. Corp., 407 F. Supp. 821	83E+642	Under Iowa law, a negotiable instrument is discharged when the principal debtor becomes the holder thereof at or after maturity in his own right. I.C.A. SS 541.120(5), 554.3601-554.3606.	When is a negotiable instrument discharged?	010458.docx	LEGALEASE-00160421- LEGALEASE-00160422
Nat'l Leasing Corp. v. Williams, 80 F.R.D. 416	8.30E+10	Obligations of maker of note are determined by law of state designated on instrument as place of payment.	By what law are the obligations of the maker of a note determined?	Bills and Notes-Memo 1398- JK_64838.docx	ROSS-003309739
Jacobsen v. Bunker, 699 P.2d 1208	8.30E+10	Legal effect of promissory notes is governed by the law of the jurisdiction where they are executed and delivered.	What law governs the legal effect of a promissory note?	010910.docx	LEGALEASE-00160354- LEGALEASE-00160355
Levin-Richmond Terminal Corp. v. Int'l Longshoremen's & Warehousemen's Union, Local 10, 751 F. Supp. 1373	156+52(5)	Equitable estoppel principles are applicable to actions arising under federal law.	Are estoppel principles applicable in actions arising under federal law?	017870.docx	LEGALEASE-00159333- LEGALEASE-00159334
Commercial Bank & Tr. Co. v. Canale, 450 So. 2d 761	156+52(6)	Equitable estoppel is not favored and is invoked sparingly because it bars normal assertion of rights.	Does equitable estoppel bar the normal assertion of rights?	017920.docx	LEGALEASE-00159992- LEGALEASE-00159993
Anderson v. Anderson, 196 N.W.2d 727	156+52(6)	Equitable estoppel is not favored and is invoked sparingly because it bars normal assertion of rights.	Does equitable estoppel bar the normal assertion of rights?	Estoppel - Memo #208 - C - CSS.docx	LEGALEASE-00049320- LEGALEASE-00049321
Succession of Valdez, 44 So. 2d 151	156+54	The doctrine of estoppel is applicable only to ignorance of matters of fact, and not to acknowledgments or statements of propositions of law.	Is estoppel applicable only to acknowledgements of matters of fact?	017938.docx	LEGALEASE-00160075- LEGALEASE-00160076
Tollett v. Franklin Equities, 586 S.W.2d 96	371+2233	Corporate franchise tax is not an ad valorem property tax but is a tax levied upon privilege of engaging in business in corporate form in the state, and is levied upon net worth or capital of the corporation. T.C.A. S 67-2908.	What is corporate franchise tax?	018523.docx	LEGALEASE-00159852- LEGALEASE-00159853
Clairol Inc. v. Com., 513 Pa. 74	371+2256	Franchise tax is purely tax on right and privilege to conduct business within Commonwealth, and thus foreign corporation is not necessarily exempt from franchise tax merely because it possesses no tangible property within Commonwealth. 72 P.S. S 7601 et seq.	Is franchise tax a tax on the right or privilege to conduct business?	018561.docx	LEGALEASE-00159477- LEGALEASE-00159478
Kartman v. State Farm Mut. Auto. Ins. Co., 634 F.3d 883	217+2090	Essence of an insurance policy is a promise by the insurer to compensate the insured for the loss of something of value that is covered under the policy, thereby shifting the risk of loss from the insured to the insurer.	What is the essence of an insurance policy?	019602.docx	LEGALEASE-00159658- LEGALEASE-00159659
Perrin v. Keene, 19 Me. 355	289+956	A power to one partner to settle the affairs of the partnership, after a dissolution, does not authorize him to contract debts in the name of the firm, so as to bind his copartners; and the fact that the contract is for the loan of money to pay the partnership debts makes no difference.	Does the power to settle and adjust the affairs of the partnership authorize a partner to use the partnerships name for that purpose?	022553.docx	LEGALEASE-00160244- LEGALEASE-00160245
In re Magnani, 223 B.R. 177	289+953	Under Iowa law, dissolution does not effect change in partner's interest in specific partnership property.	Does dissolution effect a change in a partners interest in partnership property?	022646.docx	LEGALEASE-00160046- LEGALEASE-00160047

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Prime Locations of CT v. Rocky Hill Dev., 167 Conn. App. 786	302+38.5	The purpose of a complaint is to limit the issues to be decided at the trial of a case and is calculated to prevent surprise.	Is limiting the issues at trial the purpose of a complaint?	023855.docx	LEGALEASE-00159938- LEGALEASE-00159939
474 W. 150th St. Realty Corp. v. Lewis, 166 Misc. 2d 954	307A+699	Motion to restore proceeding to trial calendar may be treated by court as motion to vacate dismissal for abandonment. McKinney's CPLR 3404.	Can a court properly treat a motion to restore action dismissed for abandonment as one to vacate dismissal?	039631.docx	LEGALEASE-00159726- LEGALEASE-00159727
F.D.I.C. v. Finlay, 832 S.W.2d 158	307A+699	Trial court may not orally reinstate case that was dismissed for one of prosecution.	Can a trial court orally reinstate a case that was dismissed for want of prosecution?	039636.docx	LEGALEASE-00159740- LEGALEASE-00159741
Skarin Custom Homes v. Ross, 388 Ill. App. 3d 739	307A+561.1	Purpose of a dismissal based on other affirmative matter is to dispose of issues of law and easily proved issues of fact early in the litigation. S.H.A. 735 ILCS 5/2-619(a)(9).	What would be the purpose of a dismissal based on other affirmative matter?	039925.docx	LEGALEASE-00159585- LEGALEASE-00159586
Lloyd Noland Found. v. HealthSouth Corp., 979 So. 2d 784	307A+561.1	Dismissal for failure to state a claim can be obtained on the basis of an affirmative defense when the affirmative defense appears clearly on the face of the pleading. Rules Civ.Proc., Rule 12(b)(6).	When can a dismissal for failure be obtained on the basis of an affirmative defense?	039936.docx	LEGALEASE-00159617- LEGALEASE-00159618
State v. Carlon, 265 Or. App. 390	3.77E+38	At assault and harassment trial arising from fight between defendant and her sister at sister's home, validity of defendant's claim of self-defense did not depend on whether sister lawfully used force to attempt to remove defendant from home, but on whether defendant had a reasonable belief that her own actions in response to sister were necessary.	Does a defendant's use of force in a claim of self defense depend on a reasonable belief?	047068.docx	LEGALEASE-00160190- LEGALEASE-00160191
Forest Pres. Dist. of Cook Cty. v. Jirsa, 336 Ill. 624	148+41	Forest preserve district could not condemn land as connecting parts of natural forest, where adjoining property of district was contiguous unit. Forest Preserve Act, as amended by Laws 1921, p. 467, Smith-Hurd Stats. c. 571/212, S 1 et seq.	Does the Forest Preserve District (FPD) have the authority to acquire lands?	047618.docx	LEGALEASE-00159695- LEGALEASE-00159696
Koreski v. Seattle Hardware Co., 17 Wash. 2d 421	413+2159	Where electric motor service corporation, which was within extrahazardous employment classification, contracted to repair machinery of hardware company, whose operation of power-driven machinery brought it within extrahazardous employment classification, and manager of the service corporation was injured while supervising or personally assisting in the repair work, the manager was a "workman" within the Workmen's Compensation Act and could not maintain personal injury action against the hardware company even though the service corporation failed to carry him on its payroll and make report to Department of Labor and Industries that the manager was carried on payroll. Rem.Rev.Stat. SS 7673, 7674-1, 7675, 7676.	"For the Workmens Compensation Act to apply, must the business of the corporation in which the employers are engaged in be classified as extra hazardous, and the injuries sustained, for which compensation is claimed, be received by an employee while engaged in the course of extra hazardous work classified as such?"	Workers Compensation - Memo 665 - C - ANC_64580.docx	ROSS-003279523-ROSS-003279524
Nat'l Leasing Corp. v. Williams, 80 F.R.D. 416	8.30E+10	Obligations of maker of note are determined by law of state designated on instrument as place of payment.	Which law determines the obligations of the maker of a note?	Bills and Notes - Memo 63-DB_65096.docx	ROSS-003296239

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Lone Star Gas Co., 86 S.W.2d 484	350H+820	In light of the multiplicity of victims, the attempted or actual monetary loss substantially greater than the minimum loss specified in the statutes and a high degree of sophistication or planning occurring over a lengthy period of time, defendant's conduct in selling basement waterproofing on basis of misrepresentations was a major economic offense, which constituted an aggravating factor justifying a dispositional departure from presumptive sentence of Minnesota Sentencing Guidelines on his conviction of four counts of theft by swindle. M.S.A. SS 609.05, 609.52, subds. 2(4), 3(1, 5).	Can the court depart from guidelines in the case of a major economic offense?	012545.docx	LEGALEASE-00161295-LEGALEASE-00161296
Com. v. Knepp, 307 Pa. Super. 535	350H+50	In imposing sentence, sentencing court must consider particular circumstances of offense and character of defendant. 42 Pa.C.S.A. SS 9731 et seq., 9732.	Should the sentencing court consider the character of the defendant in reaching its determination?	012551.docx	LEGALEASE-00161503-LEGALEASE-00161504
United States v. Real Prop. Identified as: Parcel 03179-005R, 287 F. Supp. 2d 45	135H+25	Civil forfeiture does not constitute punishment for the purpose of the Double Jeopardy Clause. U.S.C.A. Const.Amend. 5.	"Does civil forfeiture not constitute ""punishment"" for purpose of a double jeopardy clause?"	Double Jeopardy - Memo 32 - C - KI.docx	LEGALEASE-00050424-LEGALEASE-00050425
State v. Nunez, 129 N.M. 63	135H+25	Removal of harm to the public is an aspect of forfeitures under the Controlled Substances Act; however, this aspect, by itself, does not render forfeiture a predominately remedial sanction, for double-jeopardy purposes. Const. Art. 2, S 15; NMSA 1978, S 30-31-34 et seq.	Is removal of harm to the public an aspect of forfeitures under the Controlled Substances Act?	Double Jeopardy - Memo 8 - C - SS_65176.docx	ROSS-003295207
Cain v. Horne, 220 Ariz. 77	141E+914	Clause of State Constitution prohibiting state aid to private schools (Aid Clause) was afforded a construction independent from that of the clause of State Constitution prohibiting appropriations for religious purposes (Religion Clause), for purpose of determining constitutionality of school voucher program through which state authorized a public school student's transfer to a private or sectarian school of the student's choice and subsidized the tuition of such schools; text of the Aid Clause encompassed more than did the Religion Clause, with the Aid Clause prohibiting the use of public funds not only to aid private or sectarian schools, but to aid public corporations as well. A.R.S. Const. Art. 2, S 12; Art. 9, S 10.	Does the Religion Clause prohibits an appropriation to pay for religious instruction in public schools?	017246.docx	LEGALEASE-00161094-LEGALEASE-00161095
Johnson v. Structured Asset Servs., 148 S.W.3d 711	156+52.10(2)	A waiver does not need to be founded upon a new agreement, supported by consideration, or based upon estoppel.	Does waiver need to be founded on a new agreement?	Estoppel - Memo 228 - C - CSS_65204.docx	ROSS-003292656-ROSS-003292657
Taranto Amusement Co. v. Mitchell Assocs., 820 So. 2d 726	156+52.10(2)	A waiver presupposes a full knowledge of a right existing, and an intentional surrender or relinquishment of that right.	Does waiver presuppose a full knowledge of a right existing?	Estoppel - Memo 245 - C - CSS_65221.docx	ROSS-003293524-ROSS-003293525
Close v. Crossland, 47 Minn. 500	315+623	A warranty of title may be implied in a contract of exchange as upon a sale of personal property.	Can a warranty of title be implied in a contract of exchange?	018380.docx	LEGALEASE-00161793-LEGALEASE-00161794
United States v. London, 714 F.2d 1558	181+9	False writing can be made by any number of artificial means and still fall within ambit of common-law forgery.	Can forgery be made by artificial means including photocopy machine?	018441.docx	LEGALEASE-00161841-LEGALEASE-00161842
Spence v. Frantz, 195 Wis. 69	200+80	Abutting landowner has title to center of highway or street subject to public easement.	Does the abutting owner have title to the center of the highway subject to public easement?	Highways - Memo 469 - RK_66369.docx	ROSS-003325223-ROSS-003325224

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Commercial Union Assur. Companies v. Kaplan, 152 N.J. Super. 273	217+1001	Insurance law recognizes insurance as an instrument of social policy and a means by which innocent victims of negligence are compensated.	Is insurance an instrument of social policy?	Insurance - Memo 112 - SNJ_65768.docx	ROSS-003280661-ROSS-003280662
Fort Walton Lumber & Supply Co. v. Par., 142 So. 2d 346	307A+697	Statute respecting the dismissal of actions for failure to prosecute and for reinstatement upon "good cause" shown does not contemplate such a misfortune as confusion reigning when a law partnership representing a party is dissolved to which situation the clients could have readjusted themselves by employment of other counsel. F.S.A. S 45.19(1).	Should the good cause necessary under statute to reinstate a suit dismissed for failure to prosecute essentially be made to appear by petition for reinstatement?	040014.docx	LEGALEASE-00160745-LEGALEASE-00160746
Braddock v. Zimmerman, 906 A.2d 776	307A+695	A complaint that is dismissed without prejudice but with express leave to amend is nevertheless a dismissed complaint.	"Is a complaint that is dismissed without prejudice with express leave to amend, a dismissed complaint?"	Pretrial Procedure - Memo 11588 - C - NE_65606.docx	ROSS-003281521-ROSS-003281522
Finlan v. Peavy, 205 S.W.3d 647	307A+583	A trial court has broad discretion in determining whether to dismiss a lawsuit.	Does a court have broad discretion in determining whether to dismiss a lawsuit?	040457.docx	LEGALEASE-00161160-LEGALEASE-00161161
Lake Meredith Reservoir Co. v. Amity Mut. Irr. Co., 698 P.2d 1340	307A+583	District courts have inherent power to dismiss claim for failure to prosecute. Rules Civ.Proc., Rule 41(b)(1, 2).	Do courts have inherent power to dismiss claim for failure to prosecute?	040544.docx	LEGALEASE-00160953-LEGALEASE-00160954
Holcomb v. Com., 58 Va. App. 339	3.77E+11	A "threat," in the criminal context, is recognized to be a communication avowing an intent to injure another's person or property.	How is a threat recognized in the criminal context?	046940.docx	LEGALEASE-00160915-LEGALEASE-00160916
Mayor & City Council of Baltimore v. Trunk, 172 Md. 35	413+105	That injury suffered by employee was accidental, and was sustained in course of his employment, is not sufficient to entitle employee to compensation, since there must exist a "workman" and "employer" and an "extrahazardous employment," within definition of compensation statute. Code Pub.Gen.Laws Supp.1935, art. 101, S 35.	"What else is required for an award of compensation, besides the injury being suffered in the course of employment?"	048698.docx	LEGALEASE-00161231-LEGALEASE-00161232
Moore v. Indus. Acc. Fund, 80 Mont. 136	413+105	Occupation, to be hazardous within Compensation Act, must be one of those enumerated or of same general character (Rev.Codes 1921, S 2852).	"Under the Compensation Act, are hazardous occupations limited to those enumerated and to others of the same general character?"	048707.docx	LEGALEASE-00161339-LEGALEASE-00161340
State v. Bayles, 121 Wash. 215	92+2432	Workmen's Compensation Act, Rem.Code 1915, S 6604-2, as amended by Laws 1919, p. 340, S 1, and Laws 1920-21, p. 719, S 1, giving the labor department power, after hearing had on its own motion, or on the application of any person interested, to declare any occupation to be extrahazardous, and be under the act, is not unconstitutional, as delegating legislative authority.	"Who can declare an occupation not already included in the Workmens Compensation Act, as extra hazardous?"	048716.docx	LEGALEASE-00160817-LEGALEASE-00160818
Nat'l Leasing Corp. v. Williams, 80 F.R.D. 416	8.30E+10	Obligations of maker of note are determined by law of state designated on instrument as place of payment.	Which law determines the obligation of the maker of a note?	Bills and Notes - Memo 1346 - RK_66249.docx	ROSS-003293680
Clark v. United States, 913 F. Supp. 441	135H+25	Civil forfeiture of drug proceeds is not punishment for double jeopardy purposes. U.S.C.A. Const.Amend. 5; Tariff Act of 1930, S 602 et seq., 19 U.S.C.A. S 1602 et seq.; Comprehensive Drug Abuse Prevention and Control Act of 1970, S 511(a)(6), 21 U.S.C.A. S 881(a)(6).	Is the civil forfeiture of drug proceeds not punishment for double jeopardy purposes?	014847.docx	LEGALEASE-00162166-LEGALEASE-00162167

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Zettel v. Paschen Contractors, 100 Ill. App. 3d 614	217+1701	An agreement to obtain insurance is not agreement of insurance; person promising to obtain insurance does not by that promise become insurer although he may assume liabilities of one if he breaches agreement.	Is an agreement to obtain insurance an agreement of insurance?	019516.docx	LEGALEASE-00162356- LEGALEASE-00162357
Gerbino v. Isle of Paradise B, 149 So. 3d 69	118A+328	Trial court could not dismiss with prejudice, for failure to timely file fourth amended complaint, condominium unit owner's declaratory judgment action seeking to determine whether private docks were built on common property of the condominium association, without considering the Kozel factors for determining if the ultimate sanction of dismissal should be imposed for an attorney's neglect; trial court gave no reason for the dismissal other than failure to timely amend the complaint which, alone, was insufficient to warrant dismissal with prejudice, and without trial court's analysis of the Kozel factors, District Court of Appeal could not review trial court's discretionary decision.	"Once a court has dismissed a complaint with leave to amend, can it subsequently dismiss with prejudice for failure to timely amend?"	040148.docx	LEGALEASE-00162158- LEGALEASE-00162159
S.S. White Dental Mfg. Co. v. Com., 212 Mass. 35	371+2127	Property tax is not proportional upon all inhabitants of commonwealth if it be assessed upon certain property at different rate from that assessed upon other similar property.	Can any tax be assessed upon certain property at a rate different from that upon other property?	Taxation - Memo 1189 - C -JL_65999.docx	ROSS-003308084-ROSS- 003308085
Domenech v. Nat'l City Bank of New York, 294 U.S. 199	371+2008	Puerto Rico is an agency of the federal government without independent sovereignty, whose authority to tax must be derived from the United States.	Can a Territory tax a federal instrumentality?	046387.docx	LEGALEASE-00162112- LEGALEASE-00162113
Hunt v. Standart, 15 Ind. 33	8.30E+12	The contract of indorsers is to pay a note generally on certain conditions, not at any particular place, and is governed by the lex loci contractus; and hence the statute placing bills payable at a bank on the same footing as bills of exchange has no application to indorsers, and therefore, if their liability is not fixed by the exercise of due diligence to collect it from the maker, they are discharged.	Does the liability of drawer attach according to the lex loci contractus?	009151.docx	LEGALEASE-00162811- LEGALEASE-00162812
Thorp, Smith & Hanchett v. Craig, 10 Iowa 461	83E+675	The law of the place where a bill of exchange is payable governs as to the allowance of days of grace.	Which law governs the allowance of days of grace upon a bill of exchange?	Bills and Notes - Memo 1356 - RK.docx	LEGALEASE-00052489- LEGALEASE-00052490
In Interest of Doe, 7 Haw. App. 582	3.77E+24	Words and hand gestures are not essential elements of crime of harassment. HRS S 711-1106(1)(b).	Are words and hand gestures essential elements of the crime of harassment?	"Threats, Stalking and Harassment - Memo 227 - C - LB_67078.docx"	ROSS-003308091-ROSS- 003308092
White v. Bethlehem Steel Corp., 222 F.3d 146	413+186	While the LHWCA does not explicitly adopt the borrowed servant doctrine, the word "employer," as used in the LHWCA section providing that an employer's LHWCA liability shall be exclusive, encompasses both general employers and employers who borrow a servant from that general employer. Longshore and Harbor Workers' Compensation Act, S 5(a), 33 U.S.C.A. S 905(a).	Does employer encompass employers who borrow from a general employer?	048729.docx	LEGALEASE-00162699- LEGALEASE-00162700
Jackson v. United States, 398 F. Supp. 607	34+79(1)	Under Servicemen's Group Life Insurance Program, responsibilities of the United States are not those of insurer, and thus actions for nonpayment or other breach of policy lie against private insurer, and not the government. 38 U.S.C.A. S 775.	Are the responsibilities of the United States under the Servicemen's Group Life Insurance Program those of an insurer	Armed Services - Memo 367 - RK.docx	LEGALEASE-00052699- LEGALEASE-00052700

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Zumwalt v. Superior Court, 49 Cal. 3d 167	104+23	Local rule directing transfer of work-related duties, and civil service employees performing them, from control of county clerk to that of superior court executive officer, and enabling legislation, did not violate state constitutional provision that county clerk shall be ex officio clerk of Superior Court. West's Ann.Cal.Gov.Code S 69898; West's Ann.Cal. Const. Art. 1, S 26; Art. 6, S 4.	Is assigning court related duties from the county clerk to the superior court unconstitutional?	013549.docx	LEGALEASE-00164130-LEGALEASE-00164131
Ex parte Hayes, 931 S.W.2d 721	135H+59	For purposes of state constitutional double jeopardy prohibition, jury is not selected as trier of fact, and defendant is not placed in jeopardy of conviction, until jury has been impaneled. Vernon's Ann.Texas Const. Art. 1, S 14.	Will defendant be placed in jeopardy of conviction when jury has been impaneled?	014806.docx	LEGALEASE-00163956-LEGALEASE-00163957
United States v. Ham, 58 F.3d 78	135H+96	Defendant's failure to object to mistrial does not constitute implied consent to mistrial, if defendant had no opportunity to object. U.S.C.A. Const.Amend. 5.	"Does a defendant's failure to object to mistrial not constitute implied consent to mistrial, if a defendant had no opportunity to object?"	015305.docx	LEGALEASE-00163058-LEGALEASE-00163059
People v. Burgess, 206 Cal. App. 3d 762	135H+95.1	Double jeopardy clause protects against retrial after improper declaration of mistrial. U.S.C.A. Const.Amend. 5; West's Ann.Cal. Const. Art. 1, S 15.	Does a double jeopardy clause protect against a retrial after an improper declaration of mistrial?	015493.docx	LEGALEASE-00163601-LEGALEASE-00163602
Velez v. Clarinda Corr. Facility, 791 F.3d 831	135H+134	When defendant has been charged with multiple offenses under same statute and arising out of same transaction, court must look to whether state legislature intended facts underlying each count to constitute separate unit of prosecution, and if unit of prosecution intended by legislature prescribes multiple punishments under same statute and conceivably arising from same incident, the Double Jeopardy Clause is not violated. U.S.C.A. Const.Amend. 5.	Does a double jeopardy clause ensure a defendant that he will not suffer more than one punishment or incessant prosecutions for a same breach of law?	015508.docx	LEGALEASE-00163643-LEGALEASE-00163644
State v. Wright, 127 P.3d 742	135H+100.1	An acquittal is an absolute bar to retrial under the Double Jeopardy Clause, regardless of how erroneous. U.S.C.A. Const.Amend. 5; West's RCWA Const. Art. 1, S 9.	"Is an acquittal is an absolute bar to retrial under the Double Jeopardy Clause, regardless of how erroneous?"	Double Jeopardy - Memo 460 - C - PC_66544.docx	ROSS-003291993-ROSS-003291994
Jensen v. Fremont Motors Cody, 2002 WY 173, 58 P.3d 322	156+52.10(3)	While the necessary intent for waiver of a right may be implied from conduct, the conduct should speak the intent clearly.	"While intent for waiver may be implied from conduct, should the conduct speak the intent clearly?"	Estoppel - Memo 279 - C - CSS_66551.docx	ROSS-003282970-ROSS-003282971
Black v. Delaware & R. Canal Co., 24 N.J. Eq. 455	148+45	The legislature, in the exercise of the right of eminent domain, may take the shares of stock in a corporation and the corporate franchise for public use, on providing for just compensation.	Can franchises be taken for public use?	Franchises - Memo 66 - KNR_66819.docx	ROSS-003283191-ROSS-003283192
El Paso Refining v. Scurlock Permian Corp., 77 S.W.3d 374	398+126	Usury is a personal defense and may not be asserted by a guarantor unless the contract with the guarantor also contains the usurious provision.	Can an individual guarantor assert a defense of usury?	018620.docx	LEGALEASE-00163573-LEGALEASE-00163574
Rubinfeld v. Mappa, 42 Misc. 2d 464	302+49	It is not title of action or prayer for judgment but facts set out in complaint which determine kind and character of action. CPLR S 6501.	Does the title of a complaint does determine the character of the action?	023937.docx	LEGALEASE-00163479-LEGALEASE-00163480
Davaloo v. State Farm Ins. Co., 135 Cal. App. 4th 409	302+43	The allegations in the body of the complaint, not the caption, constitute the cause of action against the defendant.	Do the allegations in the body of the complaint constitute the cause of action against the defendant?	023943.docx	LEGALEASE-00163547-LEGALEASE-00163548

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Hunter v. Gang, 132 Nev. Adv. Op. 22	30+3206	When reviewing the dismissal of an action for want of prosecution under the district court's inherent authority, in considering the conduct of the parties, the appellate court considers whether the parties behaved in accordance with a reasonable and good-faith belief that no court action was necessary.	Should a court demonstrate that some specific circumstance exists before it may resort to its inherent authority to dismiss an action for want of prosecution?	040866.docx	LEGALEASE-00163865- LEGALEASE-00163866
In re Ryan D., 100 Cal. App. 4th 854	3.77E+11	Criminal-threat statute does not require that threat be personally communicated to victim by person who makes threat. West's Ann.Cal.Penal Code S 422.	Does the criminal-threat statute require that the threat be personally communicated to the victim by the person who makes the threat?	047001.docx	LEGALEASE-00163423- LEGALEASE-00163424
Salvatierra v. Calderon, 836 So.2d 149	135+2	Residence of itself does not constitute domicile, but it has been one of the important elements in determining question of domicile.	Is residence one of the important elements in determining question of domicile?	Domicile - Memo 71 - C - NSY_67150.docx	ROSS-003292873
State v. Schubert, 212 N.J. 295	135H+1	A core principal of the jurisprudence of England and America is that no man can be twice lawfully punished for the same offense.	Can a man be twice lawfully punished for the same offense?	016388.docx	LEGALEASE-00165183- LEGALEASE-00165184
28 Mott St. Co. v. Summit Imp. Corp., 59 Misc. 2d 459	185+123(2)	Where entry on leased premises was pursuant to an informal oral agreement, which was barred by Statute of Frauds, the tenancy created was a "tenancy at will".	Is a tenancy created by an oral agreement treated as a tenancy at will?	021028.docx	LEGALEASE-00164967- LEGALEASE-00164968
In re A.G., 21 N.E.3d 355	135H+5.1	The state constitution provides the same double jeopardy protections as the federal constitution, proscribing both successive prosecutions and successive punishments for the same offense. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 10.	What are the constitutional protections double jeopardy provides?	041041.docx	LEGALEASE-00164451- LEGALEASE-00164452
Givens v. State, 144 A.3d 717	360+4.1(2)	The Double Jeopardy Clause of the Fifth Amendment is fully applicable to state criminal proceedings; the double jeopardy prohibition is also part of Maryland common law. U.S. Const. Amend. 5.	Is the double jeopardy prohibition part of the common law?	041044.docx	LEGALEASE-00164459- LEGALEASE-00164460
Independent Technical Services v. Campo's Exp., 812 A.2d 1238	307A+583	The trial court, as all judiciary, has a duty to encourage the timely resolution of all disputes.	"Do courts, as all judiciary, have a duty to encourage the timely resolution of all disputes?"	Pretrial Procedure - Memo 12217 - C - DHA_67311.docx	ROSS-003294725
Johnson-Snodgrass v. KTAO, 75 S.W.3d 84	307A+676	A party must be provided with adequate notice of the trial court's intent to dismiss for want of prosecution under its inherent authority, i.e., for failure to diligently prosecute case, instead of for a violation of rule of civil procedure governing dismissals for want of prosecution. Vernon's Ann.Texas Rules Civ.Proc., Rule 165a.	Does a court have the inherent authority to dismiss a case that has not been diligently prosecuted?	041099.docx	LEGALEASE-00164898- LEGALEASE-00164899
Skipper v. State, 257 Ga. 802	352H+76	Other than penetration of female sex organ by male sex organ, infliction of physical injury is not element of offense of rape. O.C.G.A. S 16-6-1.	Is physical injury an element of rape?	Sex Offenses - Memo 22 - RK_67524.docx	ROSS-003294514-ROSS- 003294515
Hackler v. Swisher Mower & Mach. Co., 284 S.W.2d 55	413+1709	Where material facts relating to compensation claimant's status as employee were not disputed, question of existence of employee-employer relationship was one of law. V.A.M.S. SS 287.020, 287.030.	"How should the definition of employer, as well as the whole of the Workmens Compensation law be construed?"	Workers' Compensation - Memo 770 - C - ANC.docx	LEGALEASE-00054873- LEGALEASE-00054874
Ex parte Ueno, 971 S.W.2d 560	135H+57	In state court, jeopardy attaches in bench trial when defendant pleads to indictment. U.S.C.A. Const.Amend. 5.	Will jeopardy attach in case of bench trial when the defendant pleads to the indictment?	014672.docx	LEGALEASE-00165667- LEGALEASE-00165668
State v. Juarez, 115 Wash. App. 881	135H+59	Jeopardy attaches after jury is selected and sworn; it is not necessary that argument or testimony be presented. U.S.C.A. Const.Amend. 5; West's RCWA Const. Art. 1, S 9.	Is it necessary to present testimony or argument once jeopardy attaches?	014764.docx	LEGALEASE-00166020- LEGALEASE-00166021

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U.S. ex rel. Rogers v. LaVallee, 517 F.2d 1330	135H+100.1	Verdict of acquittal although not followed by judgment is a bar to a subsequent prosecution for the same offense even though acquittal may appear to be based on erroneous charge.	Is a verdict of acquittal a bar to a subsequent prosecution for the same offense?	016142.docx	LEGALEASE-00165889- LEGALEASE-00165890
Pavey v. State, 764 N.E.2d 692	135H+99	"Necessity," for purposes of manifest necessity for a mistrial, such that double jeopardy does not attach, is not to be interpreted literally; there need be only a "high degree" of necessity before concluding that a mistrial is appropriate. U.S.C.A. Const.Amend. 5.	"Is a ""high degree"" of necessity sufficient to conclude that a mistrial is appropriate?"	Double Jeopardy - Memo 837 - C - MS_67952.docx	ROSS-003280709-ROSS- 003280710
Williams v. State Farm Mut. Auto. Ins. Co., 202 Mich. App. 491	135H+1	Double jeopardy prohibits a person for the same offense to be twice put in jeopardy of life or limb. U.S.C.A. Const.Amend. 5.	Can a person be twice put in jeopardy of life or limb for the same offense?	016509.docx	LEGALEASE-00165327- LEGALEASE-00165328
State v. Letell, 103 So. 3d 1129	135H+5.1	Double Jeopardy Clause protects the accused against multiple punishments for the same offense as well as a second prosecution for the same offense after acquittal or conviction. U.S.C.A. Const.Amend. 5.	Do federal and state constitutions provide that no person shall be put in jeopardy twice for the same criminal offense?	Double Jeopardy - Memo 919 - C - SK.docx	LEGALEASE-00055583- LEGALEASE-00055584
Bies v. Bagley, 519 F.3d 324	135H+1	Double Jeopardy Clause does not allow a state to prevent relitigation of an issue. U.S.C.A.Const.Amend. 5.	Does double Jeopardy Clause allow a state to prevent relitigation of an issue?	016539.docx	LEGALEASE-00165359- LEGALEASE-00165360
In re Commercial Money Ctr., 350 B.R. 465	349A+10	Labels cannot change the true nature of underlying transactions as sales or loans for security.	Can labels change the true nature of underlying transactions as sales or loans for security?	042811.docx	LEGALEASE-00166030- LEGALEASE-00166031
People v. Crane, 308 Ill. App. 3d 675	135H+100.1	Where the defendant is acquitted of an offense, the bar of double jeopardy descends, and the State is precluded from reprosecuting the defendant for the same offense. U.S.C.A. Const.Amend. 5; S.H.A. Const. Art. 1, S 10.	"Regardless of whether it is the state or the defendant seeking a trial de novo, do double jeopardy principles preclude the state from reprosecuting the defendant?"	015684.docx	LEGALEASE-00166407- LEGALEASE-00166408
Simonds v. State, 799 P.2d 1210	135H+1	Double jeopardy provisions of State and Federal constitutions have same meaning and are coextensive in application; each protects against second prosecution for same offense after acquittal, second prosecution for same offense after conviction, and multiple punishments for same offense. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 11.	Do the federal and the state double jeopardy provision have the same meaning?	Double Jeopardy - Memo 639 - C - PC_68416.docx	ROSS-003282048-ROSS- 003282049
Teachers Ins. Co. v. Berry, 901 F. Supp. 322	13+27(1)	Under Florida law, nature of cause of action against insurer for bad faith failure to settle is ex contractu and, thus, sounds in contract, not tort.	Is a bad faith claim against an insurer an action ex contractu?	Action - Memo 963 - C _1P4EaUCF9-qPcZs5Vvqa1CxWMPTeO bDB-.docx	ROSS-000000053-ROSS- 000000054
State v. Ambrose, 598 P.2d 354	135H+98	Trial court's sua sponte declaration of mistrial and discharge of jury in attempted homicide prosecution on basis of comments made by prosecutor in regard to expense and inconvenience of a retrial while jurors were being questioned with respect to likelihood that a verdict would be reached during further deliberations was not shown to be necessary, and, thus, the discharge operated as an acquittal and the constitutional guarantee against double jeopardy precluded a retrial. U.C.A.1953, 76-4-101, 76-5-203; U.S.C.A.Const. Amend. 5; Const. art. 1, S 12.	"Ought a defendant not to be put on a second trial for a same offense where, over defendant's objection, a jury has been discharged because a court did not like counsel's conduct?"	Double Jeopardy - Memo 579 - C - SHB.docx	LEGALEASE-00056362- LEGALEASE-00056363

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United Capital Ins. Co. v. Brunswick Ins. Agency, 144 Ohio App. 3d 595	307A+692	A dismissal may be conditioned upon the refiling of the action in an alternate forum, and other conditions may also be imposed.	Can a dismissal be conditioned upon the refiling of the action in an alternate forum?	040850.docx	LEGALEASE-00167083-LEGALEASE-00167084
In re Smith Barney, 975 S.W.2d 593	349A+10	Under South Carolina law, labels used by parties to describe their agreement are helpful, but not conclusive per se, in distinguishing lease from disguised security agreement. S.C.Code 1976, S 36-1-201(37).	"Are labels used by parties to describe their agreement helpful, but not conclusive per se?"	042641.docx	LEGALEASE-00166933-LEGALEASE-00166934
State ex rel. Pub. Welfare Comm'n v. Malheur Cty. Court, 185 Or. 392	371+2013	The power to tax is a legislative power which cannot be delegated to an administrative body, but a county court is a governmental body to which both the power and the duty to tax may be delegated.	Can the legislature delegate the power to tax to an administrative board?	Taxation - Memo 1316 - C - NK.docx	LEGALEASE-00056644-LEGALEASE-00056645
Expedia v. City of New York Dep't of Fin., 22 N.Y.3d 121	371+2016	Legislature's delegation of taxing power to local governments is fundamentally limited by the constitution, as the Legislature must describe with specificity the taxes authorized by any enabling statute. McKinney's Const. Art. 16, S 1.	"Should the legislature describe with specificity, the taxes authorized by any enabling statute?"	046554.docx	LEGALEASE-00166522-LEGALEASE-00166523
Mountain View/Evergreen Imp. & Serv. Dist. v. Brooks Water & Sewer Dist., 896 P.2d 1355	371+2016	Only duly elected government officials of state, county, or municipality can authorize taxation for public as a whole.	Who can authorize taxation for public as a whole?	Taxation - Memo 1324 - C - AD_68518.docx	ROSS-003294205-ROSS-003294206
State ex rel. Bd. of Health Ctr. Trustees of Clay Cty. v. Cty. Comm'n of Clay Cty., 896 S.W.2d 627	371+2016	Political subdivision's power to tax is contingent upon grant of authority to tax by the legislature. V.A.M.S. Const. Art. 6, S 7; Art. 10, SS 1, 2, 15.	What is contingent upon grant of authority to tax by the legislature?	Taxation - Memo 1325 - C - AD_68519.docx	ROSS-003281954-ROSS-003281955
Greater Poughkeepsie Library Dist. v. Town of Poughkeepsie, 81 N.Y.2d 574	371+2016	Power to tax may not be delegated to administrative agencies or other governmental departments. McKinney's Const. Art. 3, S 1; Art. 16, S 1.	Can the power to tax be delegated to administrative agencies or other governmental departments?	Taxation - Memo 1328 - C - AK_68522.docx	ROSS-003281477-ROSS-003281478
City of Camden v. Byrne, 82 N.J. 133	371+2016	Even an impost for county and township purposes is a state tax; it can be imposed by no other authority.	Is an impost for county and township purposes a state tax?	046589.docx	LEGALEASE-00166619-LEGALEASE-00166620
Welch v. Town of Ludlow, 136 Vt. 83	371+2016	Legislature, having the power to tax, can confer that power upon towns in such a manner as it pleases; state has ultimate control over methods used for local taxation. 32 V.S.A. S 3431; S 3408, Laws 1965, No. 178.	Can the legislature confer the power to tax upon towns in such a manner as it pleases?	046591.docx	LEGALEASE-00166623-LEGALEASE-00166624
Smith v. State Indus. Comm'n, 1938 OK 167	377E+12(1)	The offense of corruption by threat against a public servant involves a threat made with an intent to influence a public servant to do, or not do, some discretionary act.	"What does the offense of ""corruption by threat"" involve?"	Threats - Memo #62 - C - LB_61263.docx	ROSS-003278521-ROSS-003278522
Matter of R.D., 486 S.W.3d 130	3.77E+10	It is immaterial to a threat offense whether the accused had the capability or the intention to carry out his threat.	Is it material to a threat offense whether the accused has the capability or intention to carry out his threat?	046831.docx	LEGALEASE-00167371-LEGALEASE-00167372
Caldwell v. Corbin, 152 Ga. App. 153	392T+6(1)	Administrative Procedure Act and statute governing review of findings of Board of Review of Employment Security Agency are in derogation of common law and must be strictly construed. Code, SS 3A-101 et seq., 54-619.	Is Administrative Procedure Act construed strictly?	04773.docx	LEGALEASE-00077128-LEGALEASE-00077129

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Cole v. State, 92 Okla. Crim. 316	349+105.1	An affidavit to support a search warrant cannot be made by proxy, for affiant must do some unequivocal act in presence of magistrate showing an indication that he intended to take oath.	Can an affidavit be given by a proxy?	07303.docx	LEGALEASE-00077633-LEGALEASE-00077634
Creative Ventures v. Jim Ward & Assocs., 195 Cal. App. 4th 1430	38+100	The general rule is that the assignee takes subject to all equities and defenses existing in favor of the maker. West's Ann.Cal.Civ.Code S 1459.	Does the assignee stand on the same footing with regard to the equities and defenses available to the maker?	06646.docx	LEGALEASE-00077767-LEGALEASE-00077769
Henderson v. U.S Patent Comm'n, Ltd., 188 F. Supp. 3d 798	25T+112	A party may not be compelled under the Federal Arbitration Act (FAA) to submit to class arbitration unless there is a contractual basis for concluding that the party agreed to do so. 9 U.S.C.A. S 4.	Can parties be forced to arbitrate on a class-wide basis?	05001.docx	LEGALEASE-00078087-LEGALEASE-00078088
State v. Yell, 104 N.H. 87	146+27	Word "fraudulent" in indictment charging embezzlement includes "intent" to do act and is descriptive of motive.	What does the word fraudulent imply in an indictment charging embezzlement?	05347.docx	LEGALEASE-00080801-LEGALEASE-00080802
State v. Yell, 104 N.H. 87	146+27	Word "fraudulent" in indictment charging embezzlement includes "intent" to do act and is descriptive of motive.	What does the word fraudulent imply in an indictment charging embezzlement?	05821.docx	LEGALEASE-00080903-LEGALEASE-00080904
United States v. Henry, 111 F.3d 111	24+769	Power of Congress to control immigration is plenary and vests Congress with broad discretion in defining offenses in the area.	Does Congress have plenary power over immigration?	Aliens Immigration and Citizenship - Memo 1 - RK.docx	ROSS-003324348-ROSS-003324349
Harper v. State Farm Mut. Auto. Ins. Co., 484 So. 2d 737	8.30E+294	A "check" is a negotiable instrument, defined in relevant part as a draft, other than a documentary draft, payable on demand and drawn on a bank, and inherent in its definition, a check is a promise to pay which can be taken by the bearer or indorsee and cashed or converted on demand into federal reserve notes equaling the value stated on the check. West's Ga.Code Ann. S 11-3-104(f).	Are checks negotiable instruments?	Bills and Notes - Memo 20 - RK.docx	ROSS-003287719-ROSS-003287720
Marshall v. Wait, 628 F.2d 1255	216+3	An individual who enters a particular industry is put on notice of the likelihood of unannounced nonconsensual warrantless inspections by both the history and degree of regulation and, by accepting the benefits of the trade, he also accepts the burden of regulation and thereby consents to the necessity of inspection; consequently, there can be no reasonable expectation of privacy at least as to administrative inspections. U.S.C.A.Const. Amend. 4.	Is an individual operating within a highly regulated industry bound to administrative inspection?	00827.docx	LEGALEASE-00083971-LEGALEASE-00083972
Levine v. 418 Meadow St. Assocs., 163 Conn. App. 701	30+1	The right to an appeal is not a constitutional one; rather, it is but a statutory privilege available to one who strictly complies with the statutes and rules on which the privilege is granted.	Is right to appeal constitutional?	05111.docx	LEGALEASE-00084197-LEGALEASE-00084198
Wilmington Tr. Co. v. Clark, 289 Md. 313	368+1	Under the English common law, suicide was a felony punishable by ignominious burial on the highway and forfeiture of the suicide's goods and chattels to the king.	Is suicide a felony?	05164.docx	LEGALEASE-00084199-LEGALEASE-00084200

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Final Exit Network, 889 N.W.2d 296	92+1807	Statute criminalizing assisting suicide was narrowly tailored to serve the government's compelling interest in the preservation of human life, and therefore survived strict scrutiny in challenge to statute as a content-based restriction violating the First Amendment as applied to right-to-die organization's actions of advising member who committed suicide as to suicide methods, observing member's connection of suicide device, and removal and disposal of suicide equipment; state had a compelling interest in the preservation of member's life and the prevention of her suicide, despite fact that she had an incurable condition and suffered from chronic pain, and organization's argument that statute was underinclusive because it only criminalized organizations' speech aimed at a specific individual despite availability of same information from other sources was foreclosed by precedent from state supreme court that found the statute narrowly tailored. U.S. Const. Amend. 1; Minn. Stat. Ann. S 609.215(1).	Does the state have a compelling interest in preventing suicide?	05168.docx	LEGALEASE-00084220-LEGALEASE-00084221
Power Oil Co. v. Cochran, 138 Neb. 827	92+2500	The wisdom of Legislature in intrusting broad powers in division of motor fuels in department of agriculture and inspection with respect to determining program for inspection of refined petroleum products is not a matter of judicial determination, since courts are not arbiters of legislative wisdom but function as a check upon unauthorized and unconstitutional assumptions of power, and in an action attacking validity of statute as providing for excessive inspection fees, only question for determination by court is whether the fees are reasonably necessary to defray expense of inspection. Laws 1933, c. 116, S 3; Laws 1939, c. 85.	Will courts interfere in charging inspection fees?	05126.docx	LEGALEASE-00084246-LEGALEASE-00084247
State v. Final Exit Network, 889 N.W.2d 296	92+1807	Statute criminalizing assisting suicide was narrowly tailored to serve the government's compelling interest in the preservation of human life, and therefore survived strict scrutiny in challenge to statute as a content-based restriction violating the First Amendment as applied to right-to-die organization's actions of advising member who committed suicide as to suicide methods, observing member's connection of suicide device, and removal and disposal of suicide equipment; state had a compelling interest in the preservation of member's life and the prevention of her suicide, despite fact that she had an incurable condition and suffered from chronic pain, and organization's argument that statute was underinclusive because it only criminalized organizations' speech aimed at a specific individual despite availability of same information from other sources was foreclosed by precedent from state supreme court that found the statute narrowly tailored. U.S. Const. Amend. 1; Minn. Stat. Ann. S 609.215(1).	Does the state have a compelling interest in preventing suicide?	Suicide - Memo 20 - AKA.docx	ROSS-003285717-ROSS-003285718

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Davis v. Kraff, 405 Ill. App. 3d 20	307A+3	Whether a motion in limine should be granted is subject to the trial court's discretion.	Is a motion in limine granted subject to the discretion of the trial court and will not be reversed on appeal absent a clear showing of an abuse of that discretion?	05214.docx	LEGALEASE-00084898- LEGALEASE-00084899
Davis v. Kraff, 405 Ill. App. 3d 20	307A+3	Whether a motion in limine should be granted is subject to the trial court's discretion.	Is a motion in limine granted subject to the discretion of the trial court and will not be reversed on appeal absent a clear showing of an abuse of that discretion?	05688.docx	LEGALEASE-00084980- LEGALEASE-00084981
Doe v. Unocal Corp., 110 F. Supp. 2d 1294	24+763	Violations of international law actionable under Alien Tort Claims Act (ATCA) must be of a norm that is specific, universal, and obligatory. 28 U.S.C.A. S 1350.	"Should a ""norm of international law"" be specific, universal, and obligatory?"	06529.docx	LEGALEASE-00085048- LEGALEASE-00085049
Telles v. Dewind, 140 A.D.3d 1701	129+107	Conduct does not have to take place in public in order for a person to be found guilty of disorderly conduct, so long as the person recklessly creates a risk of a public disturbance. McKinney's Penal Law S 240.20(1).	When is a person guilty of disorderly conduct?	10780.docx	LEGALEASE-00085396- LEGALEASE-00085397
Brandt v. MillerCoors, 2013 IL App (1st) 120431	307A+687	A motion to dismiss based upon certain defects or defenses admits the sufficiency of the claim but asserts affirmative matter that defeats the claim; the motion takes as true all well-pleaded facts and all reasonable inferences taken from those facts. S.H.A. 735 ILCS 5/2-619.	Can the motion consider all well-pleaded facts and all reasonable inferences taken from those facts as true?	11080.docx	LEGALEASE-00094289- LEGALEASE-00094290
Rector v. Dep't of Labor & Indus. of State of Wash., 61 Wash. App. 385	413+2	Industrial insurance claim is governed by explicit statutory directives and not by common law. West's RCWA 51.04.010 et seq.	Is an industrial insurance claim governed by common law?	11450.docx	LEGALEASE-00094347- LEGALEASE-00094348
Chase v. Ameriquest Mortg. Co., 155 N.H. 19	366+1	Equitable subrogation applies where one who has discharged the debt of another may, under certain circumstances, succeed to the rights and position of the satisfied creditor.	When does subrogation apply?	Subrogation - Memo 75 - ANG C.docx	ROSS-003325099-ROSS- 003325100
Thompson v. Nagle, 118 F.3d 1442	352H+32	Under Alabama law, conviction for rape requires evidence that victim was alive at time of intercourse. Ala.Code 1975, S 13A-6-61(a).	Does a conviction for rape require the victim to be alive when it was committed?	Sex Offence - Memo 11 - BP.docx	ROSS-003285336-ROSS- 003285338
Dunn & Black, P.S. v. United States, 366 F. Supp. 2d 1008	170B+3079(8)	Whether equitable subrogation applies in a case presents a question of state law; whether the doctrine is applicable to any particular case depends upon the peculiar facts and circumstances of such case.	Does the question of whether equitable subrogation applies to any particular case depend upon the peculiar facts and circumstances of such case?	043685.docx	LEGALEASE-00121286- LEGALEASE-00121287
Holsomback v. Akins, 134 Ga. App. 543	162+221(4.1)	Where check was given by payee's stepmother in consideration of payee's relinquishment of his share of his father's estate, a contract was formed with stepmother which was binding on her estate and which was not revoked by stepmother's death, and in such case the check might be used as evidence in support of payee's claim of indebtedness against the stepmother but not as evidence of the indebtedness itself. Code, S 113-1525.	Can a check be used as evidence in support of the payees claim of indebtedness?	009505.docx	LEGALEASE-00125076- LEGALEASE-00125077
Warminster Twp. Mun. Auth. v. Pennsylvania Pub. Util. Comm'n, 185 Pa. Super. 431	317A+113	What may constitute a need for service justifying issuance of a certificate of public convenience depends upon locality involved and particular circumstances of each case.	What does the constitution of a need for a service depend on?	042458.docx	LEGALEASE-00127551- LEGALEASE-00127552

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United States v. McGee, 432 F. Supp. 557	34+1	Providing for the common defense is the obligation of the national military establishment and such obligation runs to all citizens irrespective of location. U.S.C.A.Const. art. 1, S 8.	Is providing for the common defense an obligation of the military?	008295.docx	LEGALEASE-00128575-LEGALEASE-00128576
Champion Auto Sales v. Polaris Sales Inc., 943 F. Supp. 2d 346	25T+139	Under the Federal Arbitration Act (FAA), the Court resolves doubts in favor of arbitration and enforces privately-negotiated arbitration agreements in accordance with their terms. 9 U.S.C.A. S 2.	How do courts enforce privately-negotiated arbitration agreements?	007308.docx	LEGALEASE-00129083-LEGALEASE-00129084
Wyoming Sawmills Inc. v. U.S. Forest Serv., 383 F.3d 1241	149E+679	United States Forest Service's action will be reversed only if it is arbitrary, capricious, otherwise not in accordance with the law, or not supported by substantial evidence.	What is the standard of review for reviewing the Forest Services action?	047586.docx	LEGALEASE-00129139-LEGALEASE-00129140
Bogart v. Unified Sch. Dist. No. 298 of Lincoln Cty., Kansas, 432 F. Supp. 895	316P+194	Purpose of tenure and continuing contract laws is to give recognition to a constitutionally protectible interest. K.S.A. 72-5411.	What is the purpose of tenure and continuing contract laws?	016962.docx	LEGALEASE-00129235-LEGALEASE-00129236
Ellis v. Gilbert, 19 Utah 2d 189	307A+742.1	Among proper purposes in proceedings before trial is exploration of possibility of resolving dispute without trial.	What is among the proper purposes in proceedings before trial?	026321.docx	LEGALEASE-00129811-LEGALEASE-00129812
E.I. DuPont de Nemours & Co. v. Rhone Poulenc Fiber & Resin Intermediates, S.A.S., 269 F.3d 187	25T+141	When the non-signatory to an arbitration agreement knowingly exploits the agreement containing the arbitration clause despite having never signed the agreement, courts prevent a non-signatory from embracing a contract, and then turning its back on the portions of the contract, such as an arbitration clause, that it finds distasteful. 9 U.S.C.A. S 1 et seq.	Is a non-signatory precluded from embracing a contract?	007361.docx	LEGALEASE-00130218-LEGALEASE-00130219
Carnes v. Meadowbrook Exec. Bldg. Corp., 17 Kan. App. 2d 292	307A+742.1	Primary purposes of pretrial conference are to reduce, if not completely remove, uncertainty from trial, to determine exactly what issues are involved, and to establish what procedures are to be followed.	What is the primary purpose of a pretrial conference?	Pretrial Procedure - Memo # 1480 - C - ES.docx	ROSS-003314510-ROSS-003314511
Wozniak v. Miles, 2002 WL 31429805	46H+627	Attorney and law firm representing online music partnership in negotiations concerning its acquisition owed no duty to minority partner who, having been unaware that negotiations were underway, sold his partnership interest before the acquisition occurred; minority partner believed firm owed him duty of care individually, given the small size of the partnership, the nature and scope of the legal representation, and his having been unaware that acquisition was imminent, but neither the attorney nor the firm had ever had contact with him, professionally or otherwise. West's Ann.Cal.Corp. Code S 16201; Prof.Conduct Rule 3-600(A).	Does the duty of care owed by an attorney to the partnership extend to the individual partners?	022114.docx	LEGALEASE-00133521-LEGALEASE-00133522
Candelario Del Moral v. UBS Financial Services Inc. of Puerto Rico, 81 F.Supp.3d 143	253+753	Under Puerto Rico law, in absence of valid pre-nuptial agreement, legal conjugal partnership governs spouses' economic relationship during marriage.	Do conjugal partnerships end when the marriage is dissolved?	022173.docx	LEGALEASE-00133574-LEGALEASE-00133575
Maharishi Sch. Vedic Scis. v. Connecticut Constitution Assocs. Ltd. P'ship, 260 Conn. 598	308+99	"Apparent authority" is that semblance of authority that a principal, through its own acts or inadvertences, causes or allows third persons to believe the principal's agent possesses.	What is an apparent authority in a principal-agent relation?	042134.docx	LEGALEASE-00133740-LEGALEASE-00133741

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Tippett v. United States, 185 F.3d 1250	34+5(3)	Information is considered misleading, for purpose of claim that provision of information amounted to misrepresentation that rendered discharge involuntary, if a reasonable person would have been misled by the representation; the misleading information can be negligently or even innocently provided, and, if the employee materially relies on the misinformation to his detriment, his retirement is considered involuntary.	Is a decision of a member of the military to resign or retire presumed to be voluntary?	008450.docx	LEGALEASE-00134076- LEGALEASE-00134078
Soliz v. State, 163 Tex. Crim. 508	110+507(7)	A prosecutrix in a statutory rape case is not an accomplice witness and a conviction for statutory rape can be sustained upon her uncorroborated testimony.	Can a prosecutrix become an accomplice in a rape case?	043019.docx	LEGALEASE-00134764- LEGALEASE-00134765
State v. Owen, 133 N.C. App. 543	352H+136	A person who is present, aiding and abetting in a rape actually perpetrated by another, is equally guilty with the actual perpetrator of the crime. G.S. S 14-27.2(a)(1).	Is aiding and abetting in a rape equally guilt as rape?	043023.docx	LEGALEASE-00134768- LEGALEASE-00134769
Robbins v. Allstate Ins. Co., 362 Ill. App. 3d 540	307A+483	A deemed admission for failing to respond to a request for admission is a judicial admission and is thus incontrovertible, even at the summary judgment stage. Sup.Ct.Rules, Rule 216(a).	"Where a party fails to properly respond to a request to admit facts, will those factual matters in the request be deemed judicial admissions which cannot later be controverted by any contrary evidence? "	029661.docx	LEGALEASE-00135083- LEGALEASE-00135084
Autry v. Bryan, 224 Va. 451	307A+716	Client is not to be rewarded with continuance when there is unexplained, unexcused nonappearance by his attorney of record.	"Should a client be rewarded with continuance when there is unexplained, unexcused non appearance by his attorney of record?"	029245.docx	LEGALEASE-00135451- LEGALEASE-00135452
Sayers v. Artistic Kitchen Design LLC, 280 Ga. App. 223	307A+472	Purpose of requests for admissions is to expedite trial and clarify the issues in a case, not gain tactical advantage over an opponent.	May requests for admissions not be used as a tactical device to trap unwary pro se litigants?	029993.docx	LEGALEASE-00136712- LEGALEASE-00136713
Morris v. McElroy, 219 Ala. 369	307A+723.1	Authority to grant or refuse continuance resides in court, not trial judge.	"Does the authority to grant or refuse continuance reside in court, not a trial judge?"	030573.docx	LEGALEASE-00137881- LEGALEASE-00137882
Teesdale v. City of Chicago, 792 F. Supp. 2d 978	129+110	Loudness, by itself, is not enough to constitute disorderly conduct under Illinois law; instead, surrounding circumstances must be considered. S.H.A. 720 ILCS 5/26-1(a)(1).	"Is loudness, by itself, enough to constitute disorderly conduct?"	014409.docx	LEGALEASE-00138360- LEGALEASE-00138361
Scott By & Through Scott v. Flynt, 704 So. 2d 998	307A+36.1	Under no circumstances should a court order require plaintiff in medical malpractice or other action to release medical information unconditionally. Code 1972, S 13-1-21; Rules of Evid., Rule 503.	Should a court order or require a person to release medical information unconditionally?	Pretrial Procedure - Memo # 4865 - C - VA.docx	ROSS-003291145-ROSS- 003291146
Cropp v. Woleslagel, 207 Kan. 627	307A+742.1	In the encouragement of settlement at a pretrial conference, it is not function of trial court to coerce or compel a litigant to make a settlement. K.S.A. 60-216.	Can a court compel a litigant to make a settlement during a pretrial conference?	026351.docx	LEGALEASE-00139043- LEGALEASE-00139044
DuBois v. Workers' Comp. Appeals Bd., 5 Cal. 4th 382	413+2	Right to workers' compensation benefits is wholly statutory and is not derived from common law. West's Ann.Cal. Const. Art. 14, S 4.	Is the right to benefits from workers compensation entirely or wholly statutory?	Workers Compensation - Memo #296 ANC.docx	ROSS-003303797-ROSS- 003303798
State v. W.R., Jr., 181 Wash. 2d 757	352H+191	Once a defendant asserts a consent defense to a charge for rape involving forcible compulsion and provides sufficient evidence to support the defense, the State bears the burden of proving lack of consent as part of its proof of the element of forcible compulsion. West's RCWA 9A.44.050(1)(a).	Does the State have the burden of proof in rape cases involving questions of consent?	043083.docx	LEGALEASE-00143412- LEGALEASE-00143413
Sizemore v. State, 10 Md. App. 682	352H+184	A jury may infer penetration from the physical condition of the victim soon after the incident.	Can a jury infer penetration from the physical condition of the victim?	043101.docx	LEGALEASE-00143446- LEGALEASE-00143447

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Mueller v. Brunn, 101 Wis. 2d 231	401+5.1	Person's interest in water in well is interest in real property and not riparian right for purposes of statute establishing venue in cases involving injury to real property. W.S.A. 801.50(1)(a), 990.01(35).	Is the contamination of water an injury to real property with respect to the venue rules?	047510.docx	LEGALEASE-00144916- LEGALEASE-00144917
Allied Gas & Chem. Co. v. Federated Mut. Ins. Co., 365 N.W.2d 26	307A+676	If there is an appeal, or if other grounds for an exemption are established, automatic dismissal rule is inapplicable, and is not renewed until a notice under rule is again sent after grounds for exemption are removed. Rules Civ.Proc., Rule 215.1.	" If there is an appeal, or if other grounds for an exemption are established, is the automatic dismissal rule inapplicable?"	036108.docx	LEGALEASE-00148059- LEGALEASE-00148060
Hayes v. Midland Credit Co., 173 Minn. 554	83E+412	Person lending commercial paper to accommodate another may limit use to be made thereof, unless it passes to holder in due course.	Can the accommodation party limit the use of accommodation paper for a specific purpose?	Bills and Notes- Memo 677-PR_57907.docx	ROSS-003320892
Milwaukee Am. Ass'n v. Landis, 49 F.2d 298	25T+163	Good-faith submission to arbiter is proper, and decision is binding, unless unsupported by evidence, or without legal foundation.	Is a submission in good faith to an arbiter controverted question considered proper and binding?	007847.docx	LEGALEASE-00148882- LEGALEASE-00148883
Thomas v. Leonard Truck Lines, 7 So. 2d 753	156+3(1)	A pleader is not "estopped" by judicial allegations which have neither deceived nor damaged anyone.	Is a pleader estopped by judicial allegations which have neither deceived nor damaged?	018083.docx	LEGALEASE-00149111- LEGALEASE-00149112
Cuka v. State, 80 S.D. 232	200+80	Under option agreement specifically stating purpose of acquiring plaintiff's property was to secure necessary right of way for highway purposes only, easement was all that state could acquire regardless of form of instrument of conveyance. SDC 1960 Supp. 28.13A01-28.13A03.	Can state acquire easement regardless of the form of the instrument of conveyance?	019078.docx	LEGALEASE-00149726- LEGALEASE-00149727
Behrman v. Louisiana Ry. & Nav. Co., 127 La. 775	156+3(1)	A party is not estopped by allegations of law unsuccessfully made in a former suit.	Is a party estopped by allegations unsuccessfully made in a former suit?	Estoppel - Memo #18 - C - CSS_58593.docx	ROSS-003278916-ROSS- 003278917
Daskam v. Ullman, 74 Wis. 474	38+97	By the assignment of a contract in writing at its face value, the assignor impliedly warrants that the maker is liable, unless the contrary clearly appears.	Does the assigner of an instrument impliedly warrant validity?	Bills and Notes - Memo 843 - RK_60296.docx	ROSS-003279856-ROSS- 003279857
LVNV Funding v. Mavaega, 527 S.W.3d 128	38+90	An assignee steps into the shoes of its assignor; it acquires no greater rights than those held by the assignor at the time of the assignment.	Can an assignee acquire greater rights than which the assignor has?	009053.docx	LEGALEASE-00157093- LEGALEASE-00157094
Stiles v. Farrar, 18 Vt. 444	83E+484	The interest of the payee in a note not negotiable may be assigned; and if assigned, and notice thereof is given to the maker, and an action is commenced upon the note in the name of the payee for the benefit of the assignee, the equitable interest of the assignee will be protected at law. This is not now an open question.	Can a note which is not negotiable be assignable?	009103.docx	LEGALEASE-00157169- LEGALEASE-00157170
Indiana Nat. Bank of Indianapolis v. Goss, 208 F.2d 619	8.30E+10	Under Illinois law, law of place of payment of note is the law which will govern the nature, validity, interpretation, and effect of the obligation.	Which law governs the nature and validity of a contract?	Bills and Notes - Memo 1396 - JK_64836.docx	ROSS-003296483-ROSS- 003296484
John Hancock Mut. Life Ins. Co. v. Fid.-Baltimore Nat. Bank & Tr. Co., 212 Md. 506	8.30E+10	Generally, law governing a bill or note is the law which the parties to the instrument intend to govern, and, therefore, if bill or note contains express provision that it shall be governed by laws of a particular state, such laws will govern.	Is the law which the parties to the instrument intended the proper law governing a bill or note?	Bills and Notes - Memo 1353 - RK_66256.docx	ROSS-003322851-ROSS- 003322852
Jackson v. United States, 398 F. Supp. 607	34+79(1)	Under Servicemen's Group Life Insurance Program, responsibilities of the United States are not those of insurer, and thus actions for nonpayment or other breach of policy lie against private insurer, and not the government. 38 U.S.C.A. S 775.	Are the responsibilities of the United States under the Servicemen's Group Life Insurance Program those of an insurer?	008869.docx	LEGALEASE-00163920- LEGALEASE-00163921

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Cilibrasi v. Reiter, 103 Cal. App. 2d 397	413+186	Workmen's Compensation Act and Labor Code do not govern liability of one who is not the employer to an employee of another. West's Ann.Labor Code, SS 3201 et seq., 3859; West's Ann.Const. art. 20, S 21.	Can the liability of one who is not the employer to an employee be governed by workmens compensation?	048563.docx	LEGALEASE-00164605-LEGALEASE-00164606
Hackler v. Swisher Mower & Mach. Co., 284 S.W.2d 55	413+1709	Where material facts relating to compensation claimant's status as employee were not disputed, question of existence of employee-employer relationship was one of law. V.A.M.S. SS 287.020, 287.030.	"How should the definition of employer, as well as the whole of the Workmens Compensation law be construed?"	048802.docx	LEGALEASE-00164667-LEGALEASE-00164668
State v. Letell, 103 So. 3d 1129	135H+5.1	Double Jeopardy Clause protects the accused against multiple punishments for the same offense as well as a second prosecution for the same offense after acquittal or conviction. U.S.C.A. Const.Amend. 5.	Do federal and state constitutions provide that no person shall be put in jeopardy twice for the same criminal offense?	016522.docx	LEGALEASE-00165344-LEGALEASE-00165345
State ex rel. Pub. Welfare Comm'n v. Malheur Cty. Court, 185 Or. 392	371+2013	The power to tax is a legislative power which cannot be delegated to an administrative body, but a county court is a governmental body to which both the power and the duty to tax may be delegated.	Can the legislature delegate the power to tax to an administrative board	046550.docx	LEGALEASE-00166514-LEGALEASE-00166515
Bennett v. Van Doren Indus., 262 Kan. 426	307A+680	Legal sufficiency of claim is determined from well-pled facts in petition. Rules Civ.Proc., K.S.A. 60-212(b)(6).	Is the legal sufficiency of claim determined from well-pled facts in a petition?	Pretrial Procedure - Memo # 9288 - C - SB_61044.docx	ROSS-003279061
Wake Cty. v. Hotels.com, 235 N.C. App. 633	307A+681	Motion to dismiss for failure to state a claim is addressed solely to the sufficiency of the complaint. Rules Civ.Proc., Rule 12(b)(6), West's N.C.G.S.A. S 1A-1.	Is a motion to dismiss for failure to state a claim addressed solely to the sufficiency of the complaint?	Pretrial Procedure - Memo # 8221 - C - SJ_58796.docx	ROSS-003279135-ROSS-003279136
Moore v. Indus. Acc. Fund, 80 Mont. 136	413+105	Occupation, to be hazardous within Compensation Act, must be one of those enumerated or of same general character (Rev.Codes 1921, S 2852).	"Under the Compensation Act, are hazardous occupations limited to those enumerated and to others of the same general character? "	Workers' Compensation - Memo 697 - C - ANC_65530.docx	ROSS-003279418
Binner v. Limestone Cty., 129 S.W.3d 710	307A+699	Motion to reinstate is the failsafe to prevent improper dismissal of cases for failure to appear, for failure to dispose of case within Supreme Court's time standards for disposition, and for failure to diligently prosecute case. Vernon's Ann.Texas Rules Civ.Proc., Rule 165a, subds. 1, 2.	Is a motion to reinstate the failsafe to prevent improper dismissal of cases for failure to appear?	Pretrial Procedure - Memo # 10829 - C - PC_64092.docx	ROSS-003280548-ROSS-003280549
State v. Tedesco, 175 Conn. 279	308+92(1)	A principal may delegate to agent all that he himself can do except acts peculiarly personal or acts regulated by statute which are required to be performed personally.	"Can a principal delegate all acts, that he can do himself? "	Principal and Agent - Memo 207 - KC_60978.docx	ROSS-003281103
Mavrix Photographs v. Livejournal, 873 F.3d 1045	308+1	Whether an agency relationship exists depends on the level of control a principal exerts over the agent.	Does an agency relationship depend on the level of control?	Principal and Agent - Memo 564- SB_63580.docx	ROSS-003281213-ROSS-003281214
Expedia v. City of New York Dep't of Fin., 22 N.Y.3d 121	371+2016	Legislature's delegation of taxing power to local governments is fundamentally limited by the constitution, as the Legislature must describe with specificity the taxes authorized by any enabling statute. McKinney's Const. Art. 16, S 1.	"Should the legislature describe with specificity, the taxes authorized by any enabling statute? "	Taxation - Memo 1318 - C - PA_68512.docx	ROSS-003283386-ROSS-003283387
In re Magnani, 223 B.R. 177	289+953	Under Iowa law, dissolution does not effect change in partner's interest in specific partnership property.	Does dissolution effect a change in a partners interest in partnership property?	Partnership - Memo 542- RM_64665.docx	ROSS-003283402-ROSS-003283403

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re R.N., 356 S.W.3d 56	211+2096	Trial court did not abuse its discretion, in proceeding for termination of parental rights, by failing to grant parents' motion for mistrial after therapist made reference on cross-examination by child protective services to father's criminal history, in violation of order granting a motion in limine; parents failed to moved to strike that testimony or to instruct jury to disregard it, and trial court could have concluded the violation was insufficiently consequential to warrant the severe sanction of a mistrial, or could also have determined that any prejudice could have been cured by an instruction to the jury to disregard had such a request been made.	"When a trial court issues an order granting a motion in limine, does the opposing party have a duty to comply with that order and to instruct the witnesses to do the same?"	Pretrial Procedure - Memo # 423 - C - SSB.docx	ROSS-003283851-ROSS-003283852
Hinojosa v. Dep't of Nat. Res., 263 Mich. App. 537	148+266	Causes of action of trespass-nuisance and unconstitutional taking are differentiated by their sources and by the damages recoverable; legislature has the constitutional authority to modify or abolish the common-law tort of trespass-nuisance, but an action that establishes an unconstitutional taking may not be limited except as provided by the Constitution because of the preeminence of the Constitution. M.C.L.A. Const. Art. 10, S 2; M.C.L.A. S 691.1407(1).	Can an action that establishes an unconstitutional taking be limited?	Eminent Domain - Memo 162 - GP.docx	ROSS-003284003-ROSS-003284004
Pawn 1st v. City of Phoenix, 239 Ariz. 539	414+1006	A zoning board has no powers except those granted by the statutes creating it, and its power is restricted to that granted by the zoning ordinance in accordance with the statute. A.R.S. S 9-462.06.	Do zoning boards have powers other than those granted by the zoning ordinance?	Zoning and planning - Memo 23 - JS.docx	ROSS-003284383-ROSS-003284384
Dade Cty. Sch. Bd. v. Radio Station WQBA, 731 So. 2d 638	366+1	Doctrine of equitable subrogation is not created by a contract, but by the legal consequences of the acts and relationships of the parties.	"Is ""equitable subrogation"" or ""legal subrogation"" broadly applied in every conceivable type of transaction in which the party invoking the doctrine has been required to pay a debt for which another is primarily answerable?"	Subrogation - Memo 228 - VG C.docx	ROSS-003284773-ROSS-003284774
Harlan E. Moore Charitable Tr. v. United States, 812 F. Supp. 130	233+501	Under Illinois law, most important element in determining whether landlord-tenant relationship or joint venture exists is intention of parties, and burden of proving existence of joint venture is on party who claims relationship exists.	Is intention an element to determine the relationship between a landlord and a tenant?	Landlord and Tenant - Memo 15 - RK.docx	ROSS-003284799-ROSS-003284801
Morris v. State, 166 Ga. App. 137	67+22	Indictment for burglary must specify location of burglary, and contain some allegation regarding ownership of burglarized premises. Code, S 27-701.	Does a burglary indictment have to specify the location of the burglary?	Burglary - Memo 84 - JK.docx	ROSS-003285834-ROSS-003285835
Taylor v. Domestic Remodeling, 97 F.3d 96	172H+1581	By commencing district court action to exercise their rescissory rights under the TILA prior to expiration of extended three-year period for rescinding home improvement contract, consumers gave required statutory notice of rescission, though consumers did not mail copy of their summons and complaint to defendant until some time later; filing of complaint itself constituted statutory notice of rescission under the TILA. Truth in Lending Act, S 125(f), 15 U.S.C.A. S 1635(f); 12 C.F.R. S 226.23(a)(3).	Does filing of a complaint constitute statutory notice of rescission?	Consumer Credit - Memo 120-IS_60297.docx	ROSS-003285911-ROSS-003285912
Frank v. Am. Gen. Fin., 23 F. Supp. 2d 1346	25T+143	Existence of an arbitration agreement between a plaintiff and a defendant does not necessarily mean that all of the plaintiff's claims against that defendant are arbitrable under the agreement.	Does the existence of an arbitration agreement between a plaintiff and a defendant mean that all of the plaintiff's claims against the defendant are arbitrable?	Alternative Dispute Resolution - Memo 546 - RK.docx	ROSS-003286533-ROSS-003286535
Simmons v. Brown, 497 F. Supp. 173	34+2	Regulations of the various branches of the service must be in accordance with those of the Department of Defense.	Should regulations of various branches of the service be in accordance with those of the Department of Defense?	Armed Forces - Memo 48 - RK.docx	ROSS-003286602-ROSS-003286603

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White v. Ballon, 149 N.Y.S.2d 82	307A+91	Examinations of defendants by plaintiffs prior to trial are favored by the courts and are not to be thwarted on technicalities, and it is within their power themselves to define the scope where an examination is warranted. Civil Practice Act, S 296.	Are examinations of defendants by plaintiffs prior to trial favored by the courts and are not to be thwarted on technicalities?	Pretrial Procedure - Memo # 4450 - C - SK.docx	ROSS-003287802-ROSS-003287803
In re Jones, 544 B.R. 692	172H+1247	Under Alabama law, the 30-day redemption period for pledged goods starts at the date the pawn contract matures, not at the date the vehicle is repossessed. Ala. Code S 5-19A-6.	When does the 30-day redemption period start in a pawn contract?	Consumer Credit- Memo 3 - RK.docx	ROSS-003287951-ROSS-003287952
Ulve v. City of Raymond, 51 Wash. 2d 241	388+243	In action against city for wrongful death of decedent who was driving automobile which went off dock into river, instruction that one driving through fog must exercise a very high degree of care was prejudicially erroneous in that it conflicted with subsequent instruction which contained correct rule and was confusing to jury.	hat is the degree of care to be exercised while driving through dust?	Highways -Memo 161- IS.docx	ROSS-003288843-ROSS-003288844
Razete v. United States, 199 F.2d 44	63+1(1)	"Graft" means an advantage which one person by reason of his peculiar position of superiority, influence or trust, exacts from another, and also includes the fraudulent obtaining of public money by the corruption of public officials.	"What is the meaning of the word ""graft""?"	Bribery - Memo #362 - C- CSS.docx	ROSS-003289204-ROSS-003289205
Bonin v. Vannaman, 261 Kan. 199	13+27(1)	Nature of a claim-whether it sounds in tort or contract-is determined from pleadings and from real nature and substance of facts therein alleged.	"Is the nature of a claim, whether it sounds in tort or contracts, determined from the pleadings?"	Action - Memo 978 - C - MV_68602.docx	ROSS-003294575-ROSS-003294576
State ex rel. Pub. Welfare Comm'n v. Malheur Cty. Court, 185 Or. 392	371+2013	The power to tax is a legislative power which cannot be delegated to an administrative body, but a county court is a governmental body to which both the power and the duty to tax may be delegated.	Can the legislature delegate the power to tax to an administrative board?	Taxation - Memo 1316 - C - NK_68510.docx	ROSS-003296362-ROSS-003296363
Lozada v. Dale Baker Oldsmobile, 91 F. Supp. 2d 1087	25T+134(6)	Arbitration clause in retail installment sales and security agreements involving sales of automobiles, providing for waiver by buyers of right to proceed by way of class action, was substantively unreasonable and unconscionable under Michigan law, due to failure to confer on arbitrator authority to provide injunctive and declaratory relief available to buyers under federal Truth in Lending Act (TILA) and state consumer protection act. Truth in Lending Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.; M.C.L.A. S 445.911(3).	Are arbitration clauses enforceable as to TILA claims?	Alternative Dispute Resolution - Memo 362 - RK.docx	ROSS-003297732-ROSS-003297733
In re Deuel, 361 B.R. 509	366+1	Under California law, doctrine of equitable subrogation operates only when it does not work any injustice to rights of others.	Does the doctrine of equitable subrogation operate only when it does not work any injustice to the rights of others?	Subrogation - Memo 315 - RM C.docx	ROSS-003298007-ROSS-003298008
Simpson v. Harper, 21 Tenn. App. 431	146+24	Partner, though liable civilly for debts of partnership, was not liable criminally for the embezzlement by a copartner, done without partner's consent or knowledge.	"Can a partner, held civilly liable for embezzling partnership property, be held criminally liable? "	Embezzlement - Memo 48 - JS.docx	ROSS-003298015-ROSS-003298016
Haitian Centers Council v. McNary, 969 F.2d 1350	24+490	Haitian refugees intercepted in international waters are "alien(s)" for purposes of Immigration and Nationality Act provision prohibiting deportation of alien to country where his life or freedom would be threatened on account of his race, religion, nationality, social group membership, or political opinion; as used in Act, term "alien" means any person not citizen or national of United States. Immigration and Nationality Act, SS 101(a)(3), 243(h)(1), as amended, 8 U.S.C.A. SS 1101(a)(3), 1253(h)(1).	What does the term alien mean?	Aliens_ Immigration and citizenship- Memo 2 - RK.docx	ROSS-003298390-ROSS-003298391

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McCabe v. Braunstein, 439 B.R. 1	366+1	Under Massachusetts law, one of the primary purposes of equitable subrogation is to avoid unwarranted windfalls.	Is one of the primary purposes of equitable subrogation to avoid unwarranted windfalls?	Subrogation - Memo 181 - ANG C.docx	ROSS-003299244-ROSS-003299246
Argonaut Ins. Co. v. C & S Bank of Tifton, 140 Ga. App. 807	366+1	Subrogation is not founded upon contract, express or implied, but upon principles of equity and justice.	Is the right of subrogation founded upon express or implied contract?	Subrogation - Memo 1017 - C- CAT.docx	ROSS-003299361-ROSS-003299362
State Bd. of Ret. v. Bulger, 446 Mass. 169	79+8	The standard for removing a clerk-magistrate from office, where required by the "public good," is broad, and in contrast, the standard for pension forfeiture based on dereliction of duty is more narrow and specific. M.G.L.A. c. 211, S 4; c. 32, S 15(4).	What is the standard for pension forfeiture of a clerk based on dereliction of duty?	Clerks of court - Memo 123 - RK.docx	ROSS-003300233-ROSS-003300234
United States v. Wechsler, 392 F.2d 344	63+1(1)	Deposit in bank by member of zoning board of check allegedly received in payment for his vote on application for re-zoning was "use of facility in interstate or foreign commerce" within meaning of statute prohibiting use of such facility for unlawful activity. 18 U.S.C.A. S 1952.	Does depositing a check constitute the use of a facility in interstate or foreign commerce?	Bribery - Memo #327 - C-CSS.docx	ROSS-003303972-ROSS-003303973
F.D.I.C. v. Skotzke, 881 F. Supp. 364	83E+335	Mere fact that promissory note was collateralized by mortgage did not affect its status as negotiable instrument.	Does the mere fact that a note is collateralized by a mortgage affect its status as a negotiable instrument?	Bills and Notes-Memo 1034 - SB_60159.docx	ROSS-003305748-ROSS-003305749
Jackson v. Searcy, 628 So. 2d 887	308+1	For agency relationship to exist, there must be meeting of the minds of principal and agent as to scope of agent's employment.	Should there be meeting of minds as to the scope of the agent's employment?	Principal and Agent - Memo 458- PR_63472.docx	ROSS-003306780-ROSS-003306781
Mouawad Nat. Co. v. Lazare Kaplan Int'l Inc., 476 F. Supp. 2d 414	308+1	Under New York law, the principal's power to control the agent is an essential element of an agency relationship; the essence of control in an agency sense is in the necessity of the consent of the principal on a given matter.	Is the principal's power to control the agent essential to an agency relationship?	Principal and Agent - Memo 515 - RK_63974.docx	ROSS-003306939-ROSS-003306940
Dodge Data & Analytics LLC v. iSqFt, 183 F. Supp. 3d 855	386+6	Under Ohio law, a trespass to chattel occurs when one intentionally disposes another of their personal property.	Is the intentional dispossession of another's personal property considered a trespass to chattel?	Trespass - Memo 117 - RK.docx	ROSS-003310860-ROSS-003310861
Schedlmayer v. Trans Int'l Airlines, 99 Misc. 2d 478	50+31(1)	Negligence of bailor which contributes to loss of bailed item will generally exonerate bailee, and burden of proving such contributory negligence is upon the bailee. CPLR 1412.	"Will the negligence of the bailor, contributing to the loss, exonerate the bailee from liability?"	Bailment - Memo 38 - RK.docx	ROSS-003311892-ROSS-003311893
Poorbaugh v. United States, 27 Fed. Cl. 628	148+2.2	No taking of trees can occur unless government has taken underlying property; destruction of trees without taking of underlying land is characterized as tortious invasion or conversion and is not compensable in Court of Federal Claims. U.S.C.A. Const.Amend. 5.	Can taking of trees occur if the government hasn't taken the underlying property?	Eminent Domain - Memo 322 - GP.docx	ROSS-003313687-ROSS-003313688
Mays v. Disneyland, 213 Cal. App. 2d 297	307A+742.1	Purpose of pretrial is to expedite proceedings and to facilitate correct determination of issues and pretrial proceeding should not become trap for unwary.	Should the purpose of a pretrial proceeding become a trap for the unwary?	Pretrial Procedure - Memo # 1336 - C - SB.docx	ROSS-003314656-ROSS-003314657
Rinn v. First Union Nat. Bank of Maryland, 176 B.R. 401	366+1	Founded on principles of natural reason and justice, subrogation is highly favored doctrine and expansively applied.	Is the doctrine of subrogation expansively applied?	Subrogation - Memo 194 - RM.docx	ROSS-003316741-ROSS-003316743
City of Columbus v. Anglin, 120 Ga. 785	13+61	The abstract and primary rights and duties of men are determined by the substantive law, which is ever in operation but no action can be based upon substantive law alone. When there is an invasion of primary rights, then, and not until then the adjective or remedial law becomes operative and under it arise rights of action.	When does remedial law become operative in a cause of action?	Action - Memo # 363.docx	ROSS-003322881-ROSS-003322883

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Jacobson v. Fed. Deposit Ins. Corp., 407 F. Supp. 821	83E+642	Under Iowa law, a negotiable instrument is discharged when the principal debtor becomes the holder thereof at or after maturity in his own right. I.C.A. SS 541.120(5), 554.3601-554.3606.	When is a negotiable instrument discharged?	Bills And Notes -Memo 52- AM_64596.docx	ROSS-003323958-ROSS-003323959
Countryside Co-op. v. Harry A. Koch Co., 280 Neb. 795	366+2	Generally, "subrogation" is the right of one, who has paid an obligation which another should have paid, to be indemnified by the other.	"Is subrogation the right of one, who has paid an obligation which another should have paid, to be indemnified by the other?"	Subrogation - Memo 343 - KG.docx	ROSS-003324053-ROSS-003324054
River Bar Farms v. Moore, 83 Ark. App. 130	401+4	In an action combining a transitory cause of action with a local cause of action, venue is determined by the essential character of the action.	How is venue determined when a transitory cause of action is combined with a local cause of action in a complaint?	Venue - Memo 59 - ANG.docx	ROSS-003329178-ROSS-003329179
Brasher v. Craig, 483 S.W.3d 446	59+48(1)	The theories of boundary by acquiescence and adverse possession are separate and distinct legal doctrines.	Are the doctrines of boundary by acquiescence and adverse possession one and the same?	Adverse Possession - Memo 10 - RM.docx	ROSS-003285206-ROSS-003285208
Lawrence v. Cooper Indep. Theatres, 177 Kan. 125	233+730	Restrictions against assignment of lease constitutes prohibitions against the right of alienation, and they are not favored by court and are to be strictly construed, and are not implied.	Are restrictions on assignments strictly construed?	Assignments - Memo 2 - MS.docx	LEGALEASE-00000110-LEGALEASE-00000111
In re Linerboard Antitrust Litig., 333 F. Supp. 2d 333	170B+3079(4)	Question of assignment of a federal antitrust claim is governed by federal common law.	Is the assignment of antitrust claim a matter of federal common law?	Assignments - Memo 5 - MS.docx	LEGALEASE-00000116-LEGALEASE-00000117
State v. Longo, 132 N.J.L. 515	181+1	The "person" defrauded, within meaning of forgery statutes, can be a state, county, or other governmental unit.	Does the person defrauded within the forgery statutes include government or other authorities?	000144.docx	LEGALEASE-00115522-LEGALEASE-00115523
State v. Spence, 131 Or. App. 392	181+1	One is guilty of forgery when one makes instrument which purports to be authentic creation of its ostensible maker, but is not authentic because ostensible maker is fictitious. ORS 165.002(4), 165.007.	When is one guilty of forgery?	000150.docx	LEGALEASE-00115417-LEGALEASE-00115419
Cattle National Bank & Trust Co. v. Watson, 880 N.W.2d 906	195+1	A "guaranty" is a contract by which the guarantor promises to make payment if the principal debtor defaults.	Will a promise to make payment for the default of another amount to guaranty?	03636.docx	LEGALEASE-00077213-LEGALEASE-00077214
Concierge Nursing Centers v. Antex Roofing, 433 S.W.3d 37	217+1000	In an insurance arrangement, the insurer assumes the risk that a loss may occur in exchange for a premium payment; in this way, insurance companies are in the business of spreading losses across the premiums they receive.	"In an insurance arrangement, what is the risk that the insurer assumes?"	000196.docx	LEGALEASE-00115430-LEGALEASE-00115432
Riker v. Lemmon, 798 F.3d 546	253+228	The Constitution protects a prisoner's fundamental right to marry; individuals do not lose this constitutional protection simply because they are imprisoned.	Do prisoners have a fundamental right to marry?	000244.docx	LEGALEASE-00115472-LEGALEASE-00115473
Anderson v. Goins, 187 S.W.2d 415	322H+189	A deed conveying realty to minor girl in consideration of her agreement to marry grantor, who placed deed with grantee's mother for delivery to grantee after marriage, was not void as contrary to public policy under rule pertaining to marriage brokerage contracts, as mother obtained no benefit or promise of reward from grantor for consenting to marriage.	Will the courts consider marriage brokerage contracts as void?	Marriage and Cohabitation - Memo 5 - RM.docx	LEGALEASE-00000258-LEGALEASE-00000259
State v. Harris, 104 P.3d 1250	350H+205	Purpose of statute requiring state to provide notice of intent to seek hard 40 sentence is to make defendant aware of hard 40 prospect so as to be in a position to devise his or her strategy. K.S.A. 21-4624(1).	What purpose does a notice serve under law?	Notice - Memo 2 - VP.docx	LEGALEASE-00000268-LEGALEASE-00000269

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AT&T Mobility LLC v. Concepcion, 563 U.S. 333	360+18.15	The Federal Arbitration Act (FAA) preempts California's judicial rule stating that a class arbitration waiver is unconscionable under California law if it is found in a consumer contract of adhesion in a setting in which disputes between the contracting parties predictably involve small amounts of damages, and if it is alleged that the party with superior bargaining power has carried out a scheme to deliberately cheat large numbers of consumers out of individually small sums of money, because that rule stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress in enacting the FAA, which include ensuring the enforcement of arbitration agreements according to their terms so as to facilitate streamlined proceedings; abrogating Discover Bank v. Superior Court, 36 Cal.4th 148, 30 Cal.Rptr.3d 76, 113 P.3d 1100. 9 U.S.C.A. S 2; West's Ann.Cal.Civ.Code SS 1668, 1670.5(a).	What is the prime objective of an agreement to arbitrate?	004125.docx	LEGALEASE-00115623- LEGALEASE-00115625
Bates v. Northwestern Human Services, 466 F. Supp. 2d 69	9+1	While accounting is extraordinary remedy, it may nevertheless be appropriate when plaintiff is unable to determine how much, if any, money is due him from another.	What is accounting?	Account -Memo 2 - VP.docx	LEGALEASE-00000388- LEGALEASE-00000389
Eubank v. First Nat. Bank of Bellville, 814 S.W.2d 130	195+1	Guaranty creates secondary obligation whereby guarantor promises to answer for debt of another and may be called upon to perform once primary obligor has failed to perform.	How does a guaranty create a secondary obligation on the guarantor?	Guaranty - Memo 3 - RM.docx	LEGALEASE-00000519- LEGALEASE-00000520
Meadows v. Belknap, 199 W. Va. 243	322H+319	No particular words are necessary to create a life estate; any language in conveyance, which sufficiently shows grantor's intention will suffice.	How are life estates created?	Life Estates - Memo 8 - RM.docx	LEGALEASE-00000590- LEGALEASE-00000592
Jenkins v. Jenkins, 784 S.W.2d 640	277+1	Reasonable notice is prerequisite to court's power to order notice of a proceeding for a period of time different than that prescribed by rule governing notice. V.A.M.R. 44.01(d).	What is a prerequisite to the lawful exercise of the courts power?	Notice - Memo 5 - VP.docx	LEGALEASE-00000621- LEGALEASE-00000623
Fredette v. Town of Southampton, 95 A.D.3d 940	21+13.1	Absence of certificate of conformity for out-of-state affidavit is not fatal defect.	Is the absence of a certificate of conformity for a foreign or out-of-state affidavit a fatal defect?	003771.docx	LEGALEASE-00115839- LEGALEASE-00115840
In re Empyrean Biosciences Securities Litigation, 219 F.R.D. 408	170A+629	Where securities fraud complaint in action brought pursuant to the Private Securities Litigation Reform Act (PSLRA) was otherwise lacking in substantive allegations, attached affidavit provided by plaintiffs' counsel, which contained evidentiary support for the absent allegations, was not a "written instrument" within meaning of rule providing that "(a) copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes," and thus it could not be considered by court as part of complaint. Securities Exchange Act of 1934, S 21D, as amended, 15 U.S.C.A. S 78u-4; Fed.Rules Civ.Proc.Rule 10(c), 28 U.S.C.A.	Can affidavits be considered as pleadings?	07336.docx	LEGALEASE-00077580- LEGALEASE-00077581
State v. Hamilton, 291 Or. 283	181+10	Word "maker" as used in statute concerning false alteration of written instrument is to be understood in broad sense, as one who makes or executes, and, in such sense, endorser is also maker, since endorser is executing instrument. ORS 165.002 et seq., 165.002(1, 6, 8), 165.013.	Should the term maker be legally understood in a broad sense?	Forgery - Memo 20 - JS.docx	ROSS-003288674-ROSS- 003288675

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
MJ & Partners Rest. Ltd. P'ship v. Zadikoff, 10 F. Supp. 2d 922	379+396	Under Illinois law, as predicted by district court, exclusive licensee of the right to exploit a celebrity's name, likeness, or personality may state a cause of action for misappropriation of the right to publicity.	Is the right to exploit ones name or likeliness assignable?	003906.docx	LEGALEASE-00115939-LEGALEASE-00115940
Kelly v. Rainelle Coal Co., 135 W. Va. 594	124+8	A "profit a prendre in gross" is in the nature of an estate in land rather than an easement and is assignable and inheritable.	Is profit a prendre in gross assignable and heritable?	Assignments - Memo 28 - MS.docx	ROSS-003302276-ROSS-003302278
Monster Content v. HOMES.COM, 331 B.R. 438	51+2131	Actual knowledge of a bankruptcy proceeding does not supplant the requirement of formal notice for a known creditor. U.S.C.A. Const.Amend. 5; 11 U.S.C.A. S 1141(d).	Will actual knowledge supplant a formal statutory notification?	05856.docx	LEGALEASE-00089240-LEGALEASE-00089241
Andrews v. Jackson Cty., 43 Mich. App. 160	1.49E+03	There is no right to pollute; local government may take reasonable regulatory action under the police power to prevent pollution.	Is there a right to pollute?	004004.docx	LEGALEASE-00116011-LEGALEASE-00116013
Glens Falls Ins. Co. v. Consol. Freightways, 242 Cal. App. 2d 774	48A+144.1(4)	Proof of financial responsibility required by Automobile Financial Responsibility Law may be given by written certificate of insurance carrier authorized to do business in California that motor vehicle liability policy had been issued and is in effect, by deposit with motor vehicle department of \$25,000, or by written certificate of self-insurer holding certificate of self-insurance. West's Ann.Vehicle Code, SS 16055, 16431, 16435, 16436.	Is a certificate of self-insurance a motor vehicle liability policy?	03839.docx	LEGALEASE-00078135-LEGALEASE-00078137
Hallock v. Bushauer, 113 N.J. Eq. 102	277+12	Second purchaser, chargeable with notice of vendor's previous contract to another purchaser, will be compelled in equity to convey land to first purchaser.	"Can a second purchaser, having notice of a previous contract, be compelled to convey to a former purchaser holding such previous contract?"	Notice -Memo 31- JS.docx	ROSS-003282721-ROSS-003282722
Pomeroy v. Sam Thorpe Min. Co., 37 Ariz. 541	277+12	Notice of unrecorded instrument is equivalent to recording of it, with respect to person having such notice.	"Is a notice of unrecorded instrument equivalent to the recording of it, with respect to the person having such notice?"	03846.docx	LEGALEASE-00078140-LEGALEASE-00078143
Chapman v. Chapman, 526 So.2d 131	315+134	Duty owed by life tenant to remaindermen is comparable to that of a trustee or quasi-trustee, as life tenant cannot injure the property to the detriment of the rights of the remaindermen.	What is the nature of relationship between a life tenant and a remainderman?	004254.docx	LEGALEASE-00115995-LEGALEASE-00115996
Burton v. Hilltop Care Ctr., 813 N.W.2d 250	15A+2202	When determining whether an agency has been clearly vested with the authority to interpret a provision of law, reviewing court does not focus its inquiry on whether the agency does or does not have the broad authority to interpret the act as a whole; instead, each case requires a careful look at the specific language the agency has interpreted as well as the specific duties and authority given to the agency with respect to enforcing particular statutes. I.C.A. S 17A.19(10)(c, l).	Is it required that an agency be vested with express authority to interpret a statute?	Administrative Law - M_1-VoXZg2MuSr_IDFFIYQ3FISDIJxYj3Fi.docx	ROSS-000000096-ROSS-000000097
Oltarsh v. Turf Broadway, 12 Misc. 2d 984	25+5(2)	Changing a nonnegotiable instrument to one that is negotiable is a "material alteration" invalidating the note as against a holder in due course. Negotiable Instruments Law, SS 91, 205, 206.	Is a change of a writing from a non-negotiable instrument into a negotiable instrument a material alteration of the original instrument?	Forgery - Memo 31 - JS.docx	LEGALEASE-00001264-LEGALEASE-00001265
S. Owners Ins. Co. v. Cooperativa De Seguros Multiples, 143 So. 3d 439	315+603	The primary elements of ownership of property are the rights of possession, use and enjoyment, the right to change or improve the property, and the right to alienate the property.	What are the elements and rights ofownership of the property?	003032.docx	LEGALEASE-00116085-LEGALEASE-00116086
Cislo v. City of Shelton, 35 Conn. Supp. 645	268+63.1	Courts must search for statutory authority for municipal enactment rather than search for a statutory prohibition against it.	Do the courts to search for a statutory prohibition for an enactment while determining whether a regulation was enacted within the authority of the enactor?	Zoning and Planning - Memo 26 - JS.docx	ROSS-003288135-ROSS-003288137

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Omega Protein v. Samson Contour Energy E&P LLC (In re Omega Protein), 548 F.3d 361	354+208	Vessel owner has "privity" or knowledge of the unseaworthy conditions or negligent acts, such that owner may not limit its liability for maritime casualties, if he personally participated in the negligent conduct or brought about the unseaworthy condition. 46 U.S.C.A. S 30505(a).	"In maritime law, does privity and knowledge mean that a shipowner knew or should have known that a certain condition existed?"	Admiralty Law - Memo 13 - JS.docx	LEGALEASE-00001477- LEGALEASE-00001479
United States v. Nueci-PeV±a, 711 F.3d 191	110+1030(2)	There was no plain error in defendant's conviction for possession with the intent to distribute over 1140 pounds of cocaine and heroin while on board a vessel in violation of the Maritime Drug Law Enforcement Act (MDLEA), on grounds that in enacting the MDLEA Congress exceeded its authority under the Piracies and Felonies Clause to define and punish piracies and felonies committed on the high seas by not requiring a nexus between the charged conduct and the United States; other circuit courts of appeal had held that the MDLEA was a constitutional exercise of Congress' power under the Piracies and Felonies Clause, and there was no Supreme Court precedent holding otherwise. U.S.C.A. Const. Art. 1, S 8, cl. 10; 46 U.S.C.A. SS 70502(c), 70503(a)(1), (b).	"How is ""a vessel without nationality"" defined under admiralty law?"	004071.docx	LEGALEASE-00116142- LEGALEASE-00116143
Sear v. Cadillac Auto. Co. of Boston, 501 F. Supp. 1350	25T+367	Appeal is not required by Federal Constitution but is rightfully conferred by statute, and right of appeal from arbitration, which is informal adjudication, quasi-judicial in nature, is conferred by statute. 9 U.S.C.A. SS 1-14.	What is the nature of arbitration?	004200.docx	LEGALEASE-00116269- LEGALEASE-00116270
Vesta Fire Ins. Corp. v. New Cap Reinsurance Corp., 244 B.R. 209	51+2422.5(4.1)	While bankruptcy court supervising domestic insolvency may grant relief from automatic stay to allow creditor to commence or continue arbitration, the considerations involved in granting exception from injunction entered in ancillary proceedings concerning foreign debtors are markedly different, as such proceedings do not call for bankruptcy court to make any determination of debtor's property interests, or to make any determination concerning timing of liquidation or manner in which validity of creditors' claims are assessed. Bankr.Code, 11 U.S.C.A. S 304.	Is the right to litigate more substantial than the contractual right to arbitrate?	004211.docx	LEGALEASE-00116280- LEGALEASE-00116282
Maersk v. Neewra, 687 F. Supp. 2d 300	16+17.1	A tort claim falls within a federal court's admiralty jurisdiction if (1) the alleged tort occurred on navigable water (the "location" or "situs" requirement), and (2) the activity giving rise to the incident had a substantial relationship to traditional maritime activity, such that the incident had a potentially disruptive influence on maritime commerce (the "connection" or "status" requirement).	What happens when a claim for relief falls within the federal courts' admiralty jurisdiction and also within the court's subject-matter jurisdiction?	004081.docx	LEGALEASE-00116314- LEGALEASE-00116316
City of San Antonio v. Pub. Util. Comm'n of Texas, 506 S.W.3d 630	15A+1262	In general, a reviewing court must construe administrative rules, which have the same force as statutes, in the same manner as statutes.	Are administrative rules construed like statutes?	004541.docx	LEGALEASE-00116370- LEGALEASE-00116371
City of San Antonio v. Pub. Util. Comm'n of Texas, 506 S.W.3d 630	15A+1262	In general, a reviewing court must construe administrative rules, which have the same force as statutes, in the same manner as statutes.	re administrative rules construed like statutes?	Environmental Law - Memo 23 - Duplicate has not been reviewed.docx	LEGALEASE-00002006- LEGALEASE-00002007

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Framlau Corp. v. Dembling, 360 F. Supp. 806	15A+1622	Administrative Procedure Act, being remedial and not jurisdictional, cannot serve as an independent basis for jurisdiction. 5 U.S.C.A. S 701 et seq.	Is Administrative Procedure Act a jurisdictional statute?	004271.docx	LEGALEASE-00116562- LEGALEASE-00116564
United States v. Miller, 317 U.S. 369	148+122	"Just compensation," within constitutional provision requiring that just compensation be given for private property taken for public use, means the full and perfect equivalent in money of property taken, so that owner will be put in as good position pecuniarily as he would have occupied if his property had not been taken. U.S.C.A.Const. Amend. 5.	What does the term just compensation imply under the law?	Eminent Domain - Memo 9 - AKA.doc	LEGALEASE-00002128- LEGALEASE-00002129
Merrill v. Davis, 100 N.M. 552	253+201	For a marriage to be valid, it must be formally entered into by contract and solemnized before an appropriate official. NMSA 1978, SS 40-1-1, 40-1-2.	Is a marriage valid without solemnization?	Marriage and Cohabitation - Memo 10 - MS.docx	LEGALEASE-00002203- LEGALEASE-00002204
Bibiano v. Lynch, 834 F.3d 966	24+385	Given unique circumstances of case in which alien, a Mexican citizen and transgender woman who returned to United States unlawfully following her removal pursuant to in absentia removal order issued by immigration judge (IJ) in the Ninth Circuit, petitioned for review of Board of Immigration Appeals (BIA) order upholding the denial of her request for withholding of removal by IJ in the Eleventh Circuit, the interests of justice favored keeping petition in the Ninth Circuit, as opposed to transfer pursuant to court's inherent authority; the government acknowledged that alien's confusion over venue was understandable, as case spanned multiple decision-makers and three jurisdictions, one of which was the Ninth Circuit where alien originally filed for asylum, there were no allegations of gamesmanship or forum shopping, case had been pending for more than a year and had been fully briefed under Ninth Circuit law, and transfer would waste judicial resources and cause unnecessary delay.	Can a court have jurisdiction even if it is not the proper venue?	004464.docx	LEGALEASE-00116471- LEGALEASE-00116472
Noell v. City of Carrollton, 431 S.W.3d 682	148+1	Under state constitution's provision governing taking of property, state may not by declaration transform private property into public property under the police power. Vernon's Ann.Texas Const. Art. 1, S 17.	Can a state transform private property into public property?	Eminent Domain - Memo 13 - AKA.doc	LEGALEASE-00002343- LEGALEASE-00002344
In re Estate of Sterile, 902 So. 2d 915	253+255	A valid marriage according to the law of a foreign nation will be recognized as such in the United States.	Are foreign marriages recognized in the United States?	Marriage and Cohabitation - Memo 13 - RK.docx	LEGALEASE-00002360- LEGALEASE-00002361
Dep't of Env'tl. Prot. v. Landmark Enterprises, 3 So. 3d 434	1.49E+04	Department of Environmental Protection (DEP), as a creature of statute, is governed by statute; it can exercise only the powers granted it by the legislature.	Is the Department of Environmental Protection (DEP) limited to exercise those powers vested in it by the General Assembly?	Environmental law - Memo 7 - JS.docx	LEGALEASE-00002387- LEGALEASE-00002388

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State v. Sanchez, 62 Wash. App. 329	110+1167(1)	Information alleging that defendant, while under the influence, or by operation of vehicle in reckless manner or with disregard for safety of others, did drive vehicle injuring victim, whose death was proximate result, gave notice of missing element of vehicular homicide of a causal connection between criminal conduct and death, and defendant failed to show that he was nonetheless actually prejudiced by inartful language, so that omission of causation element from information was not reversible error. West's RCWA 46.61.520(1).	Is death considered to be an essential element in vehicular homicide?	Homicide - Memo 6 - RM.docx	LEGALEASE-00002535- LEGALEASE-00002536
E.P.A. v. Pollution Control Bd., 308 Ill. App. 3d 741	1.49E+18	In an adjusted-standard proceeding the Pollution Control Board considers facts and circumstances relevant to the petitioner in the context of the factors the Board relied upon when adopting the pertinent rule of general applicability. S.H.A. 415 ILCS 5/28.1(c).	When does the Pollution Control Board grant an adjusted standard to a person in an adjudicatory determination?	Environmental Law - Memo 51 - AKA.doc	LEGALEASE-00002699- LEGALEASE-00002700
Fountain Park Co. v. Hensler, 199 Ind. 95	148+1	Constitutional provisions relating to eminent domain are not grants of power, but limitations on use of power inherent in sovereignty.	Do eminent domain provisions grant or limit the governments exercise of power?	Eminent Domain - Memo 23 - AKA.doc	LEGALEASE-00002815- LEGALEASE-00002816
State ex rel. Eastvold v. Superior Court of State, Skagit Cty., 44 Wash. 2d 607	148+1	Power of eminent domain does not depend for its existence on specific grant in Constitution but is inherent in sovereignty and exists in sovereign state without recognition thereof in Constitution.	Does the power of eminent domain depend for its existence upon any constitutional provisions?	Eminent Domain - Memo 28 - AKA.doc	ROSS-003284339-ROSS- 003284340
Head v. Head, 714 So. 2d 231	253+798	Goodwill is recognized as incidental property right in connection with commercial businesses, and its value may properly be included in evaluation of community-owned commercial business, in contrast to one-person "professional" corporation where goodwill results solely from identity of professional and his or her personal relationship with patients or clients.	Is goodwill an incidental property in connection with commercial business?	004758.docx	LEGALEASE-00116999- LEGALEASE-00117000
Benavidez v. United States, 177 F.3d 927	272+201	Mere allegation of negligence does not turn an intentional tort into negligent conduct.	Can a mere allegation of negligence turn an intentional tort into negligent conduct?	004822.docx	LEGALEASE-00116822- LEGALEASE-00116823
Cafferty v. State, Dep't of Transp., Div. of Motor Vehicle Servs., 144 Idaho 324	302+1	The Rules of Civil Procedure establish a system of notice pleading. Rules Civ.Proc., Rule 8(a)(1).	Does the Rules of Civil Procedure establish a system of notice pleading?	004844.docx	LEGALEASE-00116963- LEGALEASE-00116965
Schedlmayer v. Trans Int'l Airlines, 99 Misc. 2d 478	50+31(1)	Negligence of bailor which contributes to loss of bailed item will generally exonerate bailee, and burden of proving such contributory negligence is upon the bailee. CPLR 1412.	"Will the negligenceof the bailor, contributing to the loss, exonerate the bailee from liability?"	004950.docx	LEGALEASE-00117081- LEGALEASE-00117082
Stapleman v. State, 680 P.2d 73	50+16	Conversion of property by bailee may be committed by refusing to redeliver to bailor at expiration or completion of bailment.	What acts of the bailee constitute conversion of property??	004960.docx	LEGALEASE-00117091- LEGALEASE-00117092
Wausau Ins. Co. v. All Chicagoland Moving & Storage Co., 333 Ill. App. 3d 1116	50+31(1)	A prima facie case of bailment creates a rebuttable presumption that the defendant acted negligently.	Is the presumption of negligence rebuttable in a bailment?	Bailment - Memo 51 - RK.docx	ROSS-003302952-ROSS- 003302953
Gvozdenovic v. United Air Lines, 933 F.2d 1100	25T+112	Although party is bound by arbitral award only where it has agreed to arbitrate, agreement may be implied from party's conduct.	Is an arbitral award binding only when a party has agreed to arbitrate?	Alternative Dispute Resolution - Memo 94 - JS.docx	ROSS-003301109-ROSS- 003301111

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Fountain Park Co. v. Hensler, 199 Ind. 95	148+1	Constitutional provisions relating to eminent domain are not grants of power, but limitations on use of power inherent in sovereignty.	Do eminent domain provisions grant or limit the governments exercise of power?	Eminent Domain - Memo 23 - AKA.docx	LEGALEASE-00003162-LEGALEASE-00003163
Energy Transp., Ltd. v. M.V. San Sebastian, 348 F. Supp. 2d 186	25T+139	In interpreting arbitration agreement, as in any other instance of contract interpretation, parties' intentions control, but those intentions are generously construed as to issues of arbitrability.	Are arbitration agreements creatures of contract law?	004873.docx	LEGALEASE-00117133-LEGALEASE-00117135
Deutch v. Hoffman, 165 Cal. App. 3d 152	310+111	Statutes relating to civil death or suspension of civil rights of persons sentenced to prison are penal in nature and are to be strictly construed.	How should civil death statutes be construed?	004969.docx	LEGALEASE-00117195-LEGALEASE-00117196
Caplan v. Keystone Weaving Mills, 431 Pa. 407	30+87(5)	Order changing venue was not appealable where lower court exercised its discretion and made a choice between two courts which were of equal competence in the action, and the appeal did not question the jurisdiction of court of county where suit was instituted, nor did it dispute that such county was one of proper venue. Pa.R.C.P. No. 1006(d, e), 12 P.S. Appendix; 12 P.S. S 672.	"For procedural purposes, do the courts treat an objection to venue the same way as raising a question of jurisdiction?"	005182.docx	LEGALEASE-00117267-LEGALEASE-00117269
20th Century Ins. Co. v. Garamendi, 8 Cal. 4th 216	15A+1057	Adoption of regulations by administrative agency is action that is, in nature, quasi-legislative rather than quasi-adjudicative. West's Ann.Cal.Gov.Code SS 11342(b), 11346.	Is adoption of a regulation by an administrative agency a quasi-legislative act?	Administrative Law - Memo 162 - RK.docx	ROSS-003297521-ROSS-003297523
Com. v. Fouse, 417 Pa. Super. 534	207+2	Incest statute protects children from parental or familial sexual abuse and lessens chance of genetic defects while promoting solidarity of family unit. 18 Pa.C.S.A. S 4302.	Does oral intercourse amount to sexual intercourse under incest statutes?	000468.docx	LEGALEASE-00117430-LEGALEASE-00117431
Calvert & Marsh Coal Co. v. Pass, 393 So. 2d 955	386+1	Wantonness in a trespass action is established by mere knowledge on the part of the defendant of his invasion of the plaintiff's rights.	What is the meaning of wantonness in a trespass action?	Trespass - Memo 45 - RK.docx	ROSS-003309016-ROSS-003309017
In re Succession of Dysart, 206 So. 3d 357	253+833	Mere mixing of separate funds and community funds in the same account does not of itself convert an entire account into community property. La. Civ. Code Ann. art. 2341.	Will it become a community property if separate funds and community funds are deposited in one account?	005107.docx	LEGALEASE-00117321-LEGALEASE-00117322
Skillstorm v. Elec. Data Sys., 666 F. Supp. 2d 610	91+516	Legal malice required for claim of statutory conspiracy under Virginia law requires that defendant acted intentionally, purposefully, and without lawful justification to injure plaintiff; plaintiff need not prove that defendant's primary and overriding purpose was to injure plaintiff's reputation, trade, or business, but, importantly, plaintiff must prove that such a purpose was at least one of purposes of conspiracy. West's V.C.A. SS 18.2-499, 18.2-500.	What does the term legal malice mean?	000568.docx	LEGALEASE-00117462-LEGALEASE-00117463
Strei v. Blaine, 996 F. Supp. 2d 763	386+2	Because trespass is an intentional tort under Minnesota law, reasonableness on the part of the defendant is not a defense to trespass liability.	Is reasonableness on the part of the defendant a defense for trespass?	Trespass - Memo 40 - RK.docx	ROSS-003313028-ROSS-003313029
Daniel v. Morris, 181 So.3d 1195	386+14	The injury caused by trespass to real property is the loss of the use and enjoyment of the land or injury to the land. Restatement (Second) of Torts S 158.	When does a trespass occur?	Trespass - Memo 18 - RK.docx	ROSS-003297657-ROSS-003297659

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State ex rel. Spiker v. W. Virginia Racing Comm'n, 135 W. Va. 512	315T+33	Under the statute conferring power on the West Virginia Racing Commission to prescribe rules, regulations and conditions under which horse races should be conducted in the State, Commission has the authority to promulgate and enforce rules which provide that a horse owned by any person may be suspended when its saliva or urine shows presence of any narcotic, stimulant or drug, and that the purse won by a horse found to have been stimulated should be returned and redistributed. Code 19-23-12 to 19-23-23.	Can the Legislature grant regulatory power over horse racing to a State Racing Commission?	000330.docx	LEGALEASE-00117682- LEGALEASE-00117684
O'Meara v. Union Oil Co. of Cal., 212 La. 745	260+92.16	The various powers conferred by the legislature by Act of 1940 on the Commissioner of Conservation and provision of the act requiring exhaustion of administrative remedy before relief can be sought from the courts, delegate to the Commissioner authority to find the facts upon which the law is to be applied in controversies over production and conservation of oil and gas resources in Louisiana. LSA-R.S. 30:4, 30:6(a), 30:8(a) et seq., 30:12, 30:14, 30:16.	Does the Commissioner of conservation have the authority to find the facts upon which the law is to be applied?	000341.docx	LEGALEASE-00117693- LEGALEASE-00117694
Conner v. Joe Hatton, 216 So. 2d 209	178+1.7	Sections of statute authorizing Commissioner of Agriculture to include in a sweet corn marketing order provisions for grading, inspecting and regulating marketing practices in sweet corn industry, for establishment of plans and programs for advertising and sales promotion, and for carrying on research studies in production and distribution and for expenditure of money for such purposes do not constitute an unlawful delegation of legislative power. F.S.A. S 573.17(3) (a, b, d).	Is the authority vested in an administrative agency to regulate the grading and labeling of fruit an unlawful delegation of legislative authority?	000347.docx	LEGALEASE-00117699- LEGALEASE-00117700
U. S. Gypsum Co. v. Schiavo Bros., 668 F.2d 172	233+694	Under Pennsylvania law, "holdover tenant" is one who unjustifiably refuses to surrender possession of a leasehold premises at end of term of lease.	What is a holdover tenant?	Landlord and Tenant - Memo 27 - TH.docx	LEGALEASE-00004425- LEGALEASE-00004426
Folgueras v. Hassle, 331 F. Supp. 615	233+513	Migrants living in labor camps were tenants within meaning of Michigan law and their tenancy entitled them, their guests, and representatives of assistance organizations to full rights of ingress and egress to and from their dwellings, and one of rights of tenancy with which landlord might not interfere was right to invite and associate with guests of tenant's own choosing. 42 U.S.C.A. SS 2809, 2861, 2862; Elementary and Secondary Education Act of 1965, SS 101, 103(6), 105(c), 20 U.S.C.A. SS 241a, 241c(6), 241e(c).	Are migrants living in labor camps considered tenants?	000512.docx	LEGALEASE-00117635- LEGALEASE-00117636
Zimmerman v. Al Jazeera Am., 246 F. Supp. 3d 257	237+32	Under District of Columbia law, a valid claim for defamation requires a showing of legal harm, that is, defamation per se, or special harm as a result of the publication.	Is harm a necessary element of a defamation claim?	Libel and Slander - Memo 70 - RK.docx	ROSS-003298598-ROSS-003298599
Funkhouser v. Ford Motor Co., 285 Va. 272	313A+133	Manufacturer is not an insurer of its product's safety, and a manufacturer has a duty to warn only if it knows or has reason to know that its product is dangerous.	Does a manufacturer have a duty to warn about the product even if it is unaware of the dangerous nature of its product?	000647.docx	LEGALEASE-00117896- LEGALEASE-00117897
Allberry v. Parkmor Drug, 834 N.E.2d 199	313A+225	When filling prescription for drug used to treat impotence, pharmacist had no duty to warn customer of drug's side effects or to give customer manufacturer's product information.	Does a pharmacist have a duty to warn a consumer of possible side effects associated with a prescription drug prescribed by a physician?	Products Liability - Memo 19- TH.docx	ROSS-003284483-ROSS-003284485

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Adkins v. Mong, 168 Mich. App. 726	313A+225	Pharmacist had no duty to warn patient of potential side effects of substances it was dispensing in accordance with prescriptions submitted by licensed physician, all of which were valid on their face.	Does a pharmacist have a duty to warn a consumer of possible side effects associated with a prescription drug prescribed by a physician?	000651.docx	LEGALEASE-00117907-LEGALEASE-00117908
Wolfe v. Lewisburg Tr. & Safe Deposit Co., 305 Pa. 583	322H+3	Questions respecting transfer of title to land are governed by laws of place where lands are situated.	Is the transfer of title to land governed by the law of the state where the land is situated?	Property - Memo 22 - JS.docx	ROSS-003312892-ROSS-003312894
Smith v. State Indus. Comm'n, 1938 OK 167	92+4450	Defendant's asserted "right" to participate in adult consensual incest was not a fundamental liberty interest protected by State Constitution. Const. Art. 1, S 8; Art. 11, S 8; T.C.A. S 39-15-302.	Does a person have a fundamental liberty to engage in incest?	000783.docx	LEGALEASE-00117848-LEGALEASE-00117849
Benton v. State, 265 Ga. 648	92+3781	Incest statute which prohibits intercourse between stepfather and child under age of consent does not arbitrarily draw class of individuals subject to punishment and is rationally related to legitimate government interest of protection of children and family unity; thus, statute does not violate state or federal equal protection clauses. U.S.C.A. Const.Amend. 14; Const. Art. 1, S 1, Pars. 1, 2; O.C.G.A. S 16-6-22.	Do incest statutes violate equal protection rights of persons?	Incest - Memo 26 - ANG.docx	LEGALEASE-00004766-LEGALEASE-00004767
Chemehuevi Indian Tribe v. Jewell, 767 F.3d 900	209+151	Goal of Indian Nonintercourse Act is to ensure that tribal lands remain in tribal hands. 25 U.S.C.A. S 177.	What is the goal and purpose of the Indian Nonintercourse Act?	Indians - Memo 18 - MS.doc	LEGALEASE-00004768-LEGALEASE-00004769
London v. Sears, Roebuck & Co., 619 F. Supp. 2d 854	237+23.1	Under California law, "publication" of a defamatory statement, which may be written or oral, is defined as a communication to some third person who understands both the defamatory meaning of the statement and its application to the person to whom reference is made; publication to a single individual is sufficient to satisfy the publication element of a defamation claim.	Can communication to a single individual mean publication under defamation?	000832.docx	LEGALEASE-00117913-LEGALEASE-00117915
Rosen v. Tesoro Petroleum Corp., 399 Pa. Super. 226	249+0.6	Proper choice of law in malicious prosecution cases is not always law of forum in which underlying action is brought.	What law governs a claim of malicious prosecution?	Malicious Prosecution - Memo 2 - ANG.docx	LEGALEASE-00004807-LEGALEASE-00004808
Poulas v. Kumpures, 189 Ark. 44	106+190(8)	Where counterclaim was orally pleaded in municipal court, it was within discretion of circuit court to allow defendant to embody counterclaim in amended answer in circuit court.	Are oral pleadings permitted?	000862.docx	LEGALEASE-00117911-LEGALEASE-00117912
Wall St. Assocs. v. Becker Paribas, 818 F. Supp. 679	25T+113	Federal policy favors enforcement of arbitration agreements and confirmation of arbitration awards. 9 U.S.C.A. S 1 et seq.	Does federal policy favor the confirmation of arbitration awards?	001015.docx	LEGALEASE-00118018-LEGALEASE-00118019
Rosen v. Tesoro Petroleum Corp., 399 Pa. Super. 226	249+0.6	Proper choice of law in malicious prosecution cases is not always law of forum in which underlying action is brought.	What law governs a claim of malicious prosecution?	Malicious Prosecution - Memo 2 - ANG.docx	LEGALEASE-00005129-LEGALEASE-00005130
State in Interest of H.R.V., 906 P.2d 913	76D+921(1)	On review of juvenile court determination regarding child custody, Court of Appeals performs its own weighing of evidence and makes its own decision based on facts in record; however, juvenile court is allowed considerable latitude of discretion, and its judgment will not be disturbed unless Court determines that it exceeded scope of permitted discretion or acted contrary to law.	Are matters involving the custody or best interests of a child equitable in nature?	000890.docx	LEGALEASE-00118150-LEGALEASE-00118151

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Emerson Enterprises v. Kenneth Crosby New York, 781 F. Supp. 2d 166	13+3	New York Environmental Conservation Law (ECL) does not provide a private cause of action. N.Y.McKinney's ECL S 37-0107.	Does the Environmental Conservation Law (ECL) create a private cause of action?	000920.docx	LEGALEASE-00118221-LEGALEASE-00118222
State v. Martin, 102 N.J.L. 388, 400, 132 A. 93, 98 (1926)	405+1156	Statute providing that any person who for hire drills a well shall keep a log, a copy of which shall be furnished to the division of water upon forms prescribed by the chief of division of water, constituted a reasonable exercise of the power of the General Assembly to pass laws for the conservation of the natural resources of the state, and was not violative of either the state or the federal constitution. R.C. S 1521.05.	Does conservation of natural resources come under the state constitution?	05358.docx	LEGALEASE-00080825-LEGALEASE-00080826
Thorne v. Ornauer, 8 Colo. 353	231+90	Written pleadings are only required to be filed in causes originally begun in courts of record.	Are written pleadings required in courts of record?	Pleading - Memo 32 - TH.docx	ROSS-003283564-ROSS-003283565
Fennell v. Illinois Cent. R. Co., 2012 IL 113812	106+40.3	Unless the factors in forum non conveniens analysis weigh strongly in favor of transfer or dismissal, the plaintiff's choice of forum should rarely be disturbed.	Is a plaintiffs right to select forum substantial?	Venue - Memo 30 - TH.docx	LEGALEASE-00005421-LEGALEASE-00005423
Asahi Glass Co. v. Toledo Eng'g Co., 262 F. Supp. 2d 839	25T+193	Even though a nonsignatory may not invoke Federal Arbitration Act's mandatory stay provision in moving to stay an action pending arbitration, a district court has discretion to stay third party litigation involving common questions of fact within the scope of an arbitration agreement to which the third party is not a signatory. 9 U.S.C.A. S 3.	When are arbitration proceedings against a signatory and a non-signatory stayed?	001130.docx	LEGALEASE-00118372-LEGALEASE-00118374
Asahi Glass Co. v. Toledo Eng'g Co., 262 F. Supp. 2d 839	25T+193	Even though a nonsignatory may not invoke Federal Arbitration Act's mandatory stay provision in moving to stay an action pending arbitration, a district court has discretion to stay third party litigation involving common questions of fact within the scope of an arbitration agreement to which the third party is not a signatory. 9 U.S.C.A. S 3.	When are arbitration proceedings against a signatory and a non-signatory stayed?	Alternative Dispute Resolution - Memo 178 - RK.docx	LEGALEASE-00005432-LEGALEASE-00005434
Javitch v. First Union Sec., 315 F.3d 619	25T+199	Before compelling an unwilling party to arbitrate under Federal Arbitration Act (FAA), the court must engage in a limited review to determine whether the dispute is arbitrable; meaning that a valid agreement to arbitrate exists between the parties and that the specific dispute falls within the substantive scope of that agreement. 9 U.S.C.A. S 1 et seq.	When does the Federal arbitration Act (FAA) provide for a stay of proceedings?	001143.docx	LEGALEASE-00118380-LEGALEASE-00118381
Barrett v. Manufacturers Ry. Co., 453 F.2d 1305	25T+376	Arbitration is favored by the law and the decision of the arbitrators is final and not subject to review on either the merits or procedural issues. Labor Management Relations Act, 1947, S 301, 29 U.S.C.A. S 185.	Is the arbitrators decision final?	001145.docx	LEGALEASE-00118382-LEGALEASE-00118384
Bache Halsey Stuart v. French, 425 F. Supp. 1231	25T+178	Federal Arbitration Act embodies federal policy favoring arbitration of disputes between parties who have contractually agreed to arbitrate, but such policy is not without judicial exception, and where compelling arbitration conflicts with other important federal policies, courts may refuse to order arbitration. 9 U.S.C.A. S 4.	Can courts refuse to order arbitration?	001155.docx	LEGALEASE-00118392-LEGALEASE-00118394
Hagstrom v. Breutman, 572 F. Supp. 692	25T+113	Absent an indication from Congress that arbitration should not be permitted, federal policy in favor of arbitration should be enforced.	When will the federal policy in favor of arbitration not be enforced?	001158.docx	LEGALEASE-00118395-LEGALEASE-00118396

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Marchetto v. DeKalb Genetics Corp., 711 F. Supp. 936	25T+113	Courts must vigorously enforce arbitration clauses in commercial contracts. 9 U.S.C.A. S 1 et seq.	Should courts enforce arbitration clauses in commercial contracts?	001160.docx	LEGALEASE-00118397-LEGALEASE-00118399
Brady v. Williams Capital Grp., 64 A.D.3d 127	25T+140	Appropriate remedy for invalid and unenforceable fee-splitting provisions in arbitration agreement between employee and employer was to sever provisions, rather than to void entire arbitration agreement and force employee to pursue her employment discrimination claims in state or federal court, since agreement contained clause providing that rendering of any provision void or unenforceable "shall not affect the validity of the remainder of the Agreement."	Can a punitive damage clause be severed from an arbitration agreement?	Alternative Dispute Resolution - Memo 194 - RK.docx	ROSS-003285135-ROSS-003285137
CompuCredit Corp. v. Greenwood, 565 U.S. 95	25T+113	Federal Arbitration Act (FAA) provision requiring enforcement of contracts containing arbitration provisions establishes a liberal federal policy favoring arbitration agreements. 9 U.S.C.A. S 2.	Does the Federal Arbitration Act establish a liberal federal policy favoring arbitration agreements?	001173.docx	LEGALEASE-00118413-LEGALEASE-00118415
People v. Swenson, 127 Cal. App. 2d 658	146+27	Allegation that an act was done fraudulently implies that such act was done with intent to defraud.	Does an allegation that an act was done fraudulently imply that such act was done with intent to defraud?	001229.docx	LEGALEASE-00118148-LEGALEASE-00118149
United States v. 2,606.84 Acres of Land in Tarrant Cty., Tex., 309 F. Supp. 887	148+1	Power of eminent domain should be exercised only within framework of the law.	Should the power of eminent domain be exercised within the framework of the law?	001271.docx	LEGALEASE-00118348-LEGALEASE-00118349
Domaingue v. MacDonald, 978 F. Supp. 53	207+4	Under Massachusetts law, essential elements of crime of incest are sexual intercourse with person within degree of consanguinity wherein marriage is prohibited. M.G.L.A. c. 272, S 17.	What are the elements that constitute an incest?	Incest - Memo 33 - JS.docx	ROSS-003289726-ROSS-003289727
Landau v. Superior Court, 81 Cal. App. 4th 191	92+1114	No one has fundamental constitutional right to work for, or to have continued employment with, particular public or private employer. U.S.C.A. Const.Amend. 14; West's Ann.Cal. Const. Art. 1, S 7(a); Art. 4, S 16(a).	Is there a fundamental right to work for a particular employer?	001389.docx	LEGALEASE-00118442-LEGALEASE-00118443
In re Borough of Blakely, 25 A.3d 458	148+277	Property owner's claims of injury and substantial deprivation of the use of his property due to borough's construction of storm water drainage facilities which cut off vehicular access to an adjacent road were speculative and conjectural, and thus, the trial court properly rejected his de facto taking claim as premature and insufficient; owner's claim for a de facto taking was based on the premise that he could not build homes on three lots because the plastic drainage pipe blocked vehicular access to the road, but the borough never told owner he could not build homes on the lots, he never consulted with the planning commission regarding the lots, he did not investigate what storm water improvements had to be made to build homes on the lots, and he did not explain why access was not possible from another road abutting the property.	Does the law of eminent domain provide a relief for a speculative and conjectural claim of de facto taking?	001456.docx	LEGALEASE-00118651-LEGALEASE-00118652
In re H.A. Manosh Corp., 147 Vt. 367	1.49E+45	Environmental Board rule defining "substantial change" so as to necessitate acquisition of permit under land use law did not negate or undermine legislature's intent, but rather, simply defined parameters of statutory exemption afforded preexisting uses. 10 V.S.A. SS 6081, 6086(a).	How Environmental Board Rule define substantial change?	001466.docx	LEGALEASE-00118614-LEGALEASE-00118615

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Cook v. Winfrey, 975 F. Supp. 1045	237+1.6	Under Illinois conflicts law, when multi-state defamation case arises, applicable law is that of victim's domicile.	What is the law applicable to multi state defamation cases?	Libel and Slander- Memo 109 - ANG.docx	ROSS-003282085-ROSS-003282087
Cox v. Ocean View Hotel Corp., 533 F.3d 1114	25T+113	Federal Arbitration Act (FAA) creates a policy favoring enforcement of agreements to arbitrate. 9 U.S.C.A. S 2.	Which Federal Arbitration Act (FAA) provision favors enforcement of agreements to arbitrate?	001704.docx	LEGALEASE-00118748-LEGALEASE-00118749
U. S. for Use & Benefit of Indus. Eng'g & Metal Fabricators v. Eric Elevator Corp., 214 F. Supp. 947	25T+114	In general, provisions of Federal Arbitration Act are applicable to suits under Miller Act. 9 U.S.C.A. S 9; Miller Act, S 2, 40 U.S.C.A. S 270b.	Does the Federal Arbitration Act apply to suits and proceedings brought under the Miller Act?	Alternative Dispute Resolution - Memo 235 - RK.docx	ROSS-003285978-ROSS-003285979
Frasca v. Basile, 27 Conn. Supp. 292	157+52	Doctrine of judicial notice serves function of establishing facts to which offer of evidence would normally be directed.	Is judicial notice a matter of pleading?	001579.docx	LEGALEASE-00119029-LEGALEASE-00119030
E & M Liquors v. Pub. Serv. Elec. & Gas Co., 388 N.J. Super. 566	317A+101	Immunity from wrongful acts is not favored and public utilities do not enjoy a general tort immunity.	Do public utilities enjoy tort immunity?	001609.docx	LEGALEASE-00119039-LEGALEASE-00119040
Cura-Cruz v. CenterPoint Energy Houston Elec., 522 S.W.3d 565	317A+101	Generally, a public utility has a duty to exercise ordinary and reasonable care, but the degree of care is commensurate with the danger, for purposes of a negligence action.	What is the duty of a public utility?	Public utilities - Memo 18 - RM.docx	ROSS-003289437-ROSS-003289438
Law v. S.C. Dep't of Corr., 368 S.C. 424	249+32	In an action for malicious prosecution, malice may be inferred from a lack of probable cause to institute the prosecution.	When is malice inferred in a malicious prosecution claim?	001801.docx	LEGALEASE-00118918-LEGALEASE-00118919
Croft v. Grand Casino Tunica, 910 So. 2d 66	249+18(6)	In malicious prosecution action, probable cause to institute prosecution is determined from the facts apparent to the reasonable person at the time the prosecution is initiated.	How is probable cause in the context of malicious prosecution evaluated?	001807.docx	LEGALEASE-00118959-LEGALEASE-00118960
Arciniaga v. Gen. Motors Corp., 460 F.3d 231	25T+114	Congress passed the Federal Arbitration Act (FAA) to tame judges' antipathy to any innovation that would deprive them of their jurisdiction.	Has the Federal Arbitration Act affected the hostility courts once held towards arbitration agreements?	002169.docx	LEGALEASE-00119129-LEGALEASE-00119130
Merritt v. Mountain Laurel Chalets, 96 F.Supp.3d 801	289+421	Whether a partnership exists in a given case depends upon applicable state law.	Is the existence of a partnership decided by state law?	002302.docx	LEGALEASE-00119158-LEGALEASE-00119159
Ralph v. State Dep't of Nat. Res., 171 Wash. App. 262	13+1	The nature of a claim for relief is determined by the facts alleged in the complaint and as adduced thereunder, and by the relief requested.	How is the nature of a claim for relief determined?	002042.docx	LEGALEASE-00119284-LEGALEASE-00119285
Hayes v. State, 341 S.W.3d 293	401+2	A civil rights claim is typically a transitory action in terms of evaluating venue; a transitory cause of action may become local when a statute prescribes a particular county in which they must be brought.	Is a claim for violation of civil rights a transitory action?	002114.docx	LEGALEASE-00119336-LEGALEASE-00119337
State v. Buck, 92 Or. App. 130	207+2	Difference in treatment accorded by incest statute to those who engage in intercourse with person while married to that person's parent as opposed to those who engage in sexual intercourse with person without being married to that person's parent was rationally related to legitimate governmental purpose of protection of family, and did not deny equal protection of the laws to stepfather who was convicted of incest with adult stepdaughter. ORS 163.505(1), 163.525, 163.525(1); U.S.C.A. Const.Amend. 14; Const.Art. 1, S 20.	Does incest prohibit sexual relationships between step-children and step-parents?	002255.docx	LEGALEASE-00119243-LEGALEASE-00119244

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State v. Jones, 105 N.J. Super. 493	207+4	Lack of consent, or force and violence, is not a necessary element of "incest." Code 1939, S 12978.	Are force and violence elements of incest?	Incest - Memo 46 - JS.docx	ROSS-003282992-ROSS-003282994
Pyburn v. State, 301 Ga. App. 372	207+5	Adoptive children enjoy the rights and privileges of a biological child, including protection from incest. West's Ga.Code Ann. S 16-6-22(a).	Are adoptive children protected from incest?	Incest - Memo 47 - JS.docx	ROSS-003324360-ROSS-003324361
Bradford v. Com., 345 S.W.3d 245	207+5	As a matter of first impression, incest statute, while prohibiting sexual intercourse of deviate sexual intercourse between certain persons known to be ancestors, descendants, or family members, did not include a step-grandfather/step-grandchild relationship and thus, defendant could not be convicted of incest for sexual conduct with step-grandchild. KRS 530.020.	Does sexual intercourse between step-grandfather and step-grandchild amount to incest?	002272.docx	LEGALEASE-00119270-LEGALEASE-00119271
Schmall v. Vill. of Addison, 171 Ill. App. 3d 344	145+13	Persons engaged in transmission of electricity are not insurers of public safety.	Are persons engaged in the transmission of electricity insurers of the safety of the public?	Electricity - Memo 25 - RK.docx	LEGALEASE-00007783-LEGALEASE-00007787
Petition of Boston & Maine Corp., 109 N.H. 324	15A+1058	If private rights are affected by an administrative board's decision, that decision is a judicial one.	Are decisions of administrative boards considered judicial when they affect private rights?	Administrative Law - Memo 169 - RK.docx	LEGALEASE-00007890-LEGALEASE-00007891
Raines v. Com., 379 S.W.3d 152	207+5	Age of victim was not element of crime of incest, and statute was properly applied to defendant who engaged in sexual relations with his adult stepdaughter; primary element for incest was relationship of the parties, "relationship of stepparent and stepchild" was specifically set forth in incest statute as prohibited relationship, and no relationship listed in statute had an age constraint. KRS 530.020.	Is victim's age an element of the crime of incest?	001475.docx	LEGALEASE-00119466-LEGALEASE-00119467
Schlader v. Interstate Power Co., 591 N.W.2d 10	317A+101	Strict liability does not arise merely because a public utility is involved.	Does strict liability arise merely because a public utility is involved?	Public utilities - Memo 24 - RM.docx	ROSS-003285273-ROSS-003285274
Rossin v. S. Union Gas Co., 472 F.2d 707	317A+101	A public utility is responsible for damage resulting from its wrongful conduct.	Are public utilities responsible for damages resulting from their wrongful conduct?	001984.docx	LEGALEASE-00119682-LEGALEASE-00119683
Golden Rule Ins. Co. v. Manasherov, 200 Ill. App. 3d 961	401+52(1)	Trial court in declaratory judgment action brought by health insurer did not abuse its discretion in transferring case from Lawrence County where insurer was located to Cook County, where primary issue concerned what representations, if any, agent made to insured with respect to effective date of policy, and such representations occurred in Cook County; although congestion of court dockets in Cook County favored insurer's choice of venue, factor was outweighed by public interest in having localized controversies decided at home; moreover, less deference is accorded an insurer's choice of forum in a declaratory judgment action, given legislative intent to protect consumers of insurance products.	Is it in the best interest of the public that local disputes are settled in local courts?	001994.docx	LEGALEASE-00119601-LEGALEASE-00119602

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Golden Rule Ins. Co. v. Manasherov, 200 Ill. App. 3d 961	401+52(1)	Trial court in declaratory judgment action brought by health insurer did not abuse its discretion in transferring case from Lawrence County where insurer was located to Cook County, where primary issue concerned what representations, if any, agent made to insured with respect to effective date of policy, and such representations occurred in Cook County; although congestion of court dockets in Cook County favored insurer's choice of venue, factor was outweighed by public interest in having localized controversies decided at home; moreover, less deference is accorded an insurer's choice of forum in a declaratory judgment action, given legislative intent to protect consumers of insurance products.	Is it in the best interest of the public that local disputes are settled in local courts?	Venue - Memo 60 - ANG.docx	LEGALEASE-00008231- LEGALEASE-00008232
Greene v. Maxwell, 251 Ill. 335	322H+165	The mental capacity required of a grantor to sustain his deed is greater than that required of a testator to sustain his will. It is not enough that the grantor comprehends that he is making a deed of the property, but he must have the ability to transact ordinary business.	Can the mere comprehension of the grantor sustain a transaction?	00779.docx	LEGALEASE-00081596- LEGALEASE-00081598
Int'l Union, United Auto. Aircraft v. Benton Harbor Malleable Indus., 242 F.2d 536	25T+115	In absence of a statute so providing, a party to a contract cannot as a matter of right have its differences or disputes with the other contracting parties under the contract submitted to arbitration, since there is no common-law right of arbitration.	s there a common law right of arbitration?	Alternative Dispute Resolution - Memo 278 - RK.docx	LEGALEASE-00008274- LEGALEASE-00008275
State v. Haston, 64 Ariz. 72	207+6	Proof of an emission is not essential to show a completed sexual offense of rape, adultery, incest, or other carnal knowledge. Code 1939, SS 43-405, 43-4901, 63-107 (A.R.S. SS 13-471, 13-611 to 13-614, 25-101).	Is emission an essential element of incest?	002876.docx	LEGALEASE-00119763- LEGALEASE-00119765
Mahurin v. St. Luke's Hosp. of Kansas City, 809 S.W.2d 418	37+704	An operation performed without a patient's consent is a battery or trespass.	Can an operation performed without a patient's consent be considered as a battery or trespass?	Trespass - Memo 86 - TH.docx	LEGALEASE-00008368- LEGALEASE-00008370
Fowler v. S. Wire & Iron, 104 Ga. App. 401	386+4	At common law, "trespass" was wrongful act done with force and immediately injurious to person of another.	Can trespass be committed against the person of another?	002976.docx	LEGALEASE-00119790- LEGALEASE-00119791
City of Fairhope v. Raddcliffe, 48 Ala. App. 224	386+3	To be a trespass there must be an act of direct force producing injury or damage.	Is direct force producing injury or damage required to constitute a trespass?	05276.docx	LEGALEASE-00082119- LEGALEASE-00082121
Int'l Union, United Auto. Aircraft v. Benton Harbor Malleable Indus., 242 F.2d 536	25T+115	In absence of a statute so providing, a party to a contract cannot as a matter of right have its differences or disputes with the other contracting parties under the contract submitted to arbitration, since there is no common-law right of arbitration.	Is there a common law right of arbitration?	002786.docx	LEGALEASE-00119721- LEGALEASE-00119722
Christenbury Eye Ctr., P.A. v. Medflow, 802 S.E. 2d 888	13+1	Where the right of a party is once violated the injury immediately ensues and the cause of action arises.	When does an injury ensue and a cause of action arise?	002502.docx	LEGALEASE-00120083- LEGALEASE-00120086
United States v. Cronenweth Dairy Co., 102 F. Supp. 364	317A+101	Mere fact that industry is affected with public interest and may be regulated under police power does not give such industry character of public utility.	Is an industry affected with public interest given the character of a public utility?	003487.docx	LEGALEASE-00119860- LEGALEASE-00119861

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Rock River Lumber Corp. v. Universal Mortg. Corp. of Wisconsin, 82 Wis. 2d 235	366+1	Conventional subrogation is a doctrine of equity, and is applied or denied upon equitable principles.	Is subrogation applied or denied on equitable principles?	002547.docx	LEGALEASE-00119979-LEGALEASE-00119980
Jindra v. Diederich Flooring, 181 Wis. 2d 579	366+27	When seeking to impose subrogation on another party under express contractual provision, proof is presumably existence and also applicability of provision. (Per Day, J., with two Justices concurring and two Justices concurring in result.)	Issue: What types of subrogation exist?	Subrogation - Memo 9 - ANG.docx	LEGALEASE-00008866-LEGALEASE-00008867
Olinger v. Smith, 892 N.W.2d 775	13+25(2)	Actions to enforce the open meetings law are ordinary, not equitable, actions. Iowa Code Ann. S 21.6.	Are actions to enforce the open meetings law equitable actions?	Administrative Law - Memo 184 - RK.docx	ROSS-003324558-ROSS-003324559
Cooper v. WestEnd Capital Mgmt., 832 F.3d 534	25T+116	The Court of Appeals permits arbitration under non-Federal Arbitration Act (FAA) rules if a contract expressly references state arbitration law. 9 U.S.C.A. S 1 et seq.	When do courts permit arbitration under non-FAA rules?	002646.docx	LEGALEASE-00120026-LEGALEASE-00120027
Cooper v. WestEnd Capital Mgmt., 832 F.3d 534	25T+116	The Court of Appeals permits arbitration under non-Federal Arbitration Act (FAA) rules if a contract expressly references state arbitration law. 9 U.S.C.A. S 1 et seq.	When will a court permit arbitration under non-FAA rules?	002657.docx	LEGALEASE-00120049-LEGALEASE-00120051
Volt Info. Scis. v. Bd. of Trustees of Leland Stanford Junior Univ., 489 U.S. 468	360+18.15	Federal Arbitration Act contains no express preemptive provision nor does it reflect congressional intent to occupy entire field of arbitration. 9 U.S.C.A. S 1 et seq.	Does the Federal Arbitration Act (FAA) pre-empt state law that conflicts with federal law?	Alternative Dispute Resolution - Memo 305 - RK.docx	ROSS-003283476-ROSS-003283477
Evans v. Faught, 231 Cal. App. 2d 698	233+680	"Leasehold" is an estate in land and an interest in real property and lease is primarily a conveyance in that it transfers an estate to lessee.	Is a leasehold an estate in land?	Landlord and Tenant - Memo 74 - RK.docx	ROSS-003285917-ROSS-003285918
Diallo v. State, 186 Md. App. 22	221+179	The individual claiming diplomatic immunity from prosecution bears the burden of showing that he or she is entitled to immunity. Diplomatic Relations Act, S 5, 22 U.S.C.A. S 254d.	Who bears the burden of showing that he or she is entitled to diplomatic immunity?	05248.docx	LEGALEASE-00082100-LEGALEASE-00082101
In re Pub. Serv. Elec. & Gas Co.'s Rate Unbundling, 167 N.J. 377	145+1	Nothing in the Electric Discount and Energy Competition Act (EDECA) prohibits deferred accounting. N.J.S.A. 48:3-57, subd. b(3).	Does the Electric Discount and Energy Competition Act (EDECA) prohibit deferred accounting?	Electricity - Memo 40 - JS.docx	ROSS-003329932-ROSS-003329933
Matter of Cajun Elec. Power Co-op., 109 F.3d 248	145+1	Primary purpose of Rural Electrification Act (RE Act) is to bring abundant, low-cost electric energy to rural America. Rural Electrification Act of 1936, S 1 et seq., as amended, 7 U.S.C.A. S 901 et seq.	What is the Primary purpose of the Rural Electrification Act?	Electricity - Memo 45 - JS.docx	ROSS-003324659-ROSS-003324661
United States v. Burr, 25 F. Cas. 55	384+5	If a body of men be actually assembled for the purpose of effecting a treasonable purpose by force, that is levying war. But it must be a warlike assemblage, carrying the appearance of force, a military assemblage in a condition to make war or practice hostility.	Must there be actual assemblage of men to meet the levy war element of treason?	003666.docx	LEGALEASE-00120274-LEGALEASE-00120275
Jindra v. Diederich Flooring, 181 Wis. 2d 579	366+27	When seeking to impose subrogation on another party under express contractual provision, proof is presumably existence and also applicability of provision. (Per Day, J., with two Justices concurring and two Justices concurring in result.)	What types of subrogation exist?	002621.docx	LEGALEASE-00120121-LEGALEASE-00120122
Anonymous v. Anonymous, 44 Misc. 2d 14	221+180	In contradistinction to ambassadors, consuls are commercial representatives and, as such, their diplomatic immunity is limited at the most to their official acts.	Is the immunity of consuls limited in contradistinction to ambassadors?	002999.docx	LEGALEASE-00120511-LEGALEASE-00120512

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Arcaya v. Paez, 145 F. Supp. 464	221+180	A consul is not immune from suit except when action is based upon acts which he has committed within scope of his duties, but an ambassador or minister is absolutely immune from suit even though it be based upon personal transactions.	Does an ambassador enjoy absolute immunity?	003007.docx	LEGALEASE-00120519- LEGALEASE-00120520
Starr Int'l Co. v. United States, 121 Fed. Cl. 428	148+2.2	The same government action cannot be both an unauthorized illegal exaction and an authorized taking without just compensation in violation of Fifth Amendment. U.S. Const. Amend. 5.	Can the same government action be both an unauthorized illegal exaction and an authorized taking?	003081.docx	LEGALEASE-00120339- LEGALEASE-00120340
TrinCo Inv. Co. v. United States, 722 F.3d 1375	148+2.1	There are certain prerequisites that must be met before the doctrine of necessity can be applied to absolve the Government of a duty to compensate a party for lost property under the Fifth Amendment's Takings Clause, including that the doctrine of necessity may be applied only when there is an imminent danger and an actual emergency giving rise to actual necessity. U.S.C.A. Const.Amend. 5.	What factors gives rise to actual necessity under the law?	003089.docx	LEGALEASE-00120351- LEGALEASE-00120352
Naples v. United States, 344 F.2d 508	203+520	Single offense cannot be both first and second degree murder. D.C.Code 1961, SS 22-2401 to 22-2403; 18 U.S.C.A. S 1111.	Can an offense be both first and second degree murder?	003170.docx	LEGALEASE-00120479- LEGALEASE-00120480
Ballou v. Walker, 400 P.3d 234	289+445	A partnership agreement is essentially a contract between the partners to be interpreted and applied in accordance with principles of contract law.	Are the principles of contract law applicable in partnership?	003441.docx	LEGALEASE-00120650- LEGALEASE-00120651
Dix Mut. Ins. Co. v. LaFramboise, 149 Ill. 2d 314	366+1	There is no general rule to determine whether right of subrogation exists since right depends upon equities of each particular case.	When is subrogation not allowed?	Subrogation - Memo 58 - RM C.docx	ROSS-003315910-ROSS-003315911
In re Stambaugh, 532 B.R. 572	366+1	Four criteria must be met in order for equitable subrogation to apply as exception to Pennsylvania's "first in time" lien priority rule: (1) claimant must have paid creditor to protect his own interests; (2) claimant must not have acted as volunteer; (3) claimant must not have been primarily liable for debt; and (4) allowing subrogation must not cause injustice to the rights of others.	Is equitable subrogation an exception to the first in time lien priority rule?	Subrogation - Memo 68 - VP C.docx	ROSS-003283881
Nationwide Mut. Fire Ins. Co. v. T & N Master Builder & Renovators, 2011 IL App (2d) 101143	366+1	As an action in equity, a claim may be subrogated only in order to prevent injustice or unjust enrichment and will not be maintained when it would be inequitable to do so.	When is subrogation not allowed?	003578.docx	LEGALEASE-00120374- LEGALEASE-00120375
Harris v. State, 2004 OK CR 1	110+1040	Failure of jury to determine value of property defendant obtained through false pretenses was plain error, requiring reversal of conviction for obtaining property by false pretenses, where, as result of defective verdict, defendant was denied his substantial right in only being convicted and incarcerated by trial court having power to do so as result of proper verdict. W.S.1977, SS 6-3-106, 7-11-502; Rules Crim.Proc., Rule 49(b).	"In an offence against the property of another, is it an error if the jury fails to determine the value of the property in the verdict?"	003079.docx	LEGALEASE-00120760- LEGALEASE-00120761

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Peters v. ContiGroup, 292 S.W.3d 380	279+1	"Nuisance" is the unreasonable, unusual, or unnatural use of one's property so that it substantially impairs the right of another to peacefully enjoy his property; the focus is on the defendant's unreasonable interference with the plaintiff's use and enjoyment of his land.	What does nuisance entail?	Eminent Domain - Memo 144 - RK.docx	ROSS-003283003-ROSS-003283004
In re Williams, 328 S.W.3d 103	203+908	Both inference of an intent to kill and an inference of malice may be inferred from the facts and circumstances of an unlawful killing where a deadly weapon is used. R.C. S 2901.05.	Can malice be inferred from the circumstances of the killing?	003161.docx	LEGALEASE-00120773-LEGALEASE-00120775
Bentley v. Northshore Dev., 935 F. Supp. 500	249+45	Principals of corporation whose requests precipitated initiation of previous suit against plaintiff were the proper parties to plaintiff's malicious prosecution suit even though it was corporation, and not principals, who actually brought prior suit. Restatement (Second) of Torts S 674.	Who are proper parties to a plaintiff's malicious prosecution?	Malicious Prosecution - Memo 89 - AKA.docx	ROSS-003283858-ROSS-003283859
Consol. Water Utilities, Ltd. v. Arizona Corp. Comm'n, 178 Ariz. 478	317A+124	State Constitution required Arizona Corporation Commission to calculate rates for public service corporation by calculating "fair value rate base" from fair value of corporation's properties within state at time rate is fixed. A.R.S. Const. Art. 15, SS 1 et seq., 14.	Does the Corporation Commission have the right to prescribe just and reasonable rates to be made by the public service corporation within the State?	Public Utilities - Memo 48 - JS.docx	ROSS-003282281-ROSS-003282283
In re Houston, 409 B.R. 799	366+1	Subrogation is allowed under South Carolina law only upon fact intensive inquiry and a balancing of equity.	Is the decision whether to grant equitable subrogation necessarily a fact intensive inquiry?	003545.docx	LEGALEASE-00120677-LEGALEASE-00120678
Isom v. State, 651 N.E.2d 1151	110+1437	Although jury instruction erroneously suggested that sudden heat was element of voluntary manslaughter, it was not such as to mislead jury and constitute fundamental error, as required for post-conviction relief from convictions for murder and conspiracy to commit murder, where instruction, read in its totality, clearly explained that sudden heat was mitigator for reducing what would otherwise be murder to voluntary manslaughter; jury was expressly instructed that sudden heat acted as mitigator, and state's and defense counsel's closing arguments reminded jury that it was mitigating factor. West's A.I.C. 35-42-1-3(b).	Does the state bear the burden of disproving the existence of sudden heat beyond a reasonable doubt?	Homicide - Memo 101 - RK.docx	LEGALEASE-00010654-LEGALEASE-00010655
Aetna Life Ins. Co. v. Mut. Ben. Health & Acc. Ass'n, 82 F.2d 115	237+5	Published false statements may constitute libel per se against corporation as against an individual, and by such libel malice may be imputed to corporation as to individual.	Can libel be imputed to a corporation?	05533.docx	LEGALEASE-00083804-LEGALEASE-00083805
Leitner v. United States, 92 Fed. Cl. 220	148+2.4	Taxation is not the taking of private property for public purpose, under the Fifth Amendment. U.S.C.A. Const. Amend. 5.	Is taxation a taking of private property for public purpose?	017368.docx	LEGALEASE-00120939-LEGALEASE-00120940
Reardon v. Keating, 980 F. Supp. 2d 302	92+1051	The mere violation of a state law does not automatically give rise to a violation of federal due process rights. U.S.C.A. Const. Amend. 14.	Do violations of state eminent domain statutes give rise to federal constitutional claims?	017370.docx	LEGALEASE-00120941-LEGALEASE-00120943
In re Centex Homes, 411 N.J. Super. 244	317A+145.1	Generally speaking, the power of the Board of Public Utilities (BPU) to regulate utilities is broad. N.J.S.A. 48:2-12 to 48:2-25(a).	Are the powers concerning regulation of public utilities delegated to the Board of Public Utility Commissioners (BPU) broad?	042568.docx	LEGALEASE-00120948-LEGALEASE-00120950
St. Lawrence Cty. Nat. Bank of Canton v. Watkins, 153 A.D. 551	302+8(4)	An allegation that a written instrument was executed and delivered "for a valuable consideration" is an allegation of fact, and not a conclusion of law.	Is an allegation for a valuable consideration a statement of fact?	022908.docx	LEGALEASE-00120977-LEGALEASE-00120978

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Vimont v. Christian Cty. Health Dep't, 502 S.W.3d 718	23+1	Constitutional farming rights are subject to local-government powers duly authorized and conferred by the state constitution. Mo. Const. art. 1, S 35, art. 6, S 1 et seq.	What government powers are constitutional farming rights subject to?	006705.docx	LEGALEASE-00121743-LEGALEASE-00121744
Kingsway Cathedral v. Iowa Dep't Of Transp., 711 N.W.2d 6	92+3855	Fourteenth Amendment to the Federal Constitution makes the Fifth Amendment applicable to the states and their political subdivisions. U.S.C.A. Const.Amends. 5, 14.	How is Fifth Amendment made applicable to the states?	017396.docx	LEGALEASE-00121499-LEGALEASE-00121500
Ferrari v. United States, 73 Fed. Cl. 219	148+2.2	Owners of tracts within national monument did not establish that their property was constructively taken because the government's offering price for purchase of the tracts was below owners' estimation of market value, as failed negotiation between government and owners did not constitute a "taking."	Does a failed negotiation between the Government and a property owner constitute a taking?	017406.docx	LEGALEASE-00121495-LEGALEASE-00121496
Rochester Transit Corp. v. Pub. Serv. Comm'n, 271 A.D. 406	70+12(11)	That Public Service Commission had notice of last service-at-cost contract between city and street railroad and that commission made orders in collateral proceedings after such notice did not constitute implied approval by commission of subsequent contract between city and street railroad so as to preclude commission from investigating rates, since commission cannot divest itself of jurisdiction except in manner provided by Legislature. Public Service Law, S 49, subs. 9, 11.	Is the Public Service Commission a delegate of the Legislature?	042597.docx	LEGALEASE-00121401-LEGALEASE-00121403
Residential Util. Consumer Office v. Arizona Corp. Comm'n, 238 Ariz. 8	317A+124	The constitutional requirement that the Corporation Commission determine the fair value of a utility's property when setting rates is intended to avoid the harsh extremes of the rate spectrum and to ensure that both consumers and public service corporations are treated fairly. A.R.S. Const. Art. 15, S 14.	Is ascertaining the fair value of a utility property a prerogative of public service corporations?	042600.docx	LEGALEASE-00121420-LEGALEASE-00121421
State Farm Gen. Ins. Co. v. Wells Fargo Bank, N.A., 143 Cal. App. 4th 1098	217+3513(4)	While subrogation has its source in equity and arises by operation of law, it may also arise out of the contractual language of an insurance policy; subrogation provisions of most insurance contracts typically are general and add nothing to the rights of subrogation that arise as a matter of law.	From what sources can subrogation arise?	043652.docx	LEGALEASE-00121102-LEGALEASE-00121103
Worden v. Smith, 178 Wash. App. 309	366+1	The purpose of the doctrine of equitable subrogation is to avoid a person's receiving an unearned windfall at the expense of another.	Is equitable subrogation a remedy to avoid an unearned windfall?	043738.docx	LEGALEASE-00121503-LEGALEASE-00121504
Bainbridge v. Travelers Cas. Co. of Connecticut, 159 P.3d 748	366+1	Because it is an equitable doctrine, no additional actions are needed before equitable subrogation can occur, and unlike in an assignment, a subrogor need not intend to equitably subrogate the claims to a subrogee; it arises because it is imposed by courts to prevent unjust enrichment.	Are additional actions needed before equitable subrogation can occur as it is an equitable doctrine?	Subrogation - Memo # 496 - C - NO.docx	ROSS-003327692-ROSS-003327693
Worden v. Smith, 178 Wash. App. 309	366+1	The purpose of the doctrine of equitable subrogation is to avoid a person's receiving an unearned windfall at the expense of another.	Is the purpose of subrogation to avoid an unearned windfall?	Subrogation - Memo # 518 - C - SU.docx	ROSS-003297629-ROSS-003297630
In re Big Idea Prods., 372 B.R. 388	366+1	Under Texas law, subrogation is an equitable right that will not be granted when it would serve an injustice.	Is subrogation an equitable right that will not be granted when it would serve an injustice?	043845.docx	LEGALEASE-00121372-LEGALEASE-00121373
In re Big Idea Prods., 372 B.R. 388	366+1	Under Texas law, the right of subrogation does not depend on the provisions of the contract between the parties; it is implied in equity.	Does the right of subrogation depend on the provisions of the contract between the parties?	Subrogation - Memo # 559 - C - SN.docx	ROSS-003298723-ROSS-003298724
Hicks v. Londre, 107 P.3d 1009	366+1	A lienholder who successfully invokes the doctrine of equitable subrogation is called a "subrogee."	Is a lienholder who successfully invokes the doctrine of equitable subrogation called a subrogee?	Subrogation - Memo # 561 - C - AP.docx	ROSS-003325769-ROSS-003325770

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In re V. Pangori & Sons, 53 B.R. 711	366+7(1)	Surety subrogates to the rights of only those creditors whom it pays on principal's behalf.	Does a surety subrogate to the rights of only those creditors whom it pays on the principal's behalf?	Subrogation - Memo # 610 - ANG C.docx	ROSS-003289582-ROSS-003289583
Elec. Ins. Co. v. Nat'l Union Fire Ins. Co. of Pittsburgh, 346 F. Supp. 2d 958	366+27	Under Illinois law, contractual subrogation arises out of a contract, while equitable subrogation arises out of the court's equitable powers.	"Does contractual subrogation arise out of a contract, while equitable subrogation arises out of the court's equitable powers?"	Subrogation - Memo # 670 - C - SU.docx	ROSS-003326568-ROSS-003326570
First Am. Title Ins. Co. v. First All. Title, 718 F. Supp. 2d 669	366+7(1)	Under Virginia law, a surety who pays a principal's creditor is typically subrogated to the creditor's claims against the principal.	Is a surety who pays a principal's creditor typically subrogated to the creditor's claims against the principal?	044036.docx	LEGALEASE-00121636-LEGALEASE-00121637
Osterman v. Baber, 714 N.E.2d 735	366+38	While ordinary negligence will not bar the application of doctrine of equitable subrogation, the remedy will not be allowed where the party is guilty of culpable negligence.	Is equitable subrogation to be given a liberal application?	044038.docx	LEGALEASE-00121638-LEGALEASE-00121640
State Fid. Mortg. Co. v. Varner, 740 S.W.2d 477	366+7(1)	Surety who has paid debt of principal is subrogated to right of action against principal for debt so paid.	Is a surety who has paid the debt of a principal subrogated to a right of action against the principal for debt so paid?	Subrogation - Memo # 692 - C - SA.docx	ROSS-003287545-ROSS-003287546
Guillot v. Hix, 838 S.W.2d 230	366+33(1)	Generally, rights conferred by subrogation are entirely derivative of subrogor's interests, to which subrogee merely succeeds.	Are subrogation rights derivative?	Subrogation - Memo # 727 - C - SA.docx	ROSS-003285527-ROSS-003285529
Mut. of Enumclaw Ins. Co. v. USF Ins. Co., 164 Wash. 2d 411	366+1	Subrogation has two distinct types; conventional subrogation, which arises by contract, and equitable subrogation, which arises by operation of law.	Is subrogation of two distinct types?	Subrogation - Memorandum - 586 - SK.docx	ROSS-003324373-ROSS-003324374
Ickes v. Grassmeyer, 30 F. Supp. 3d 375	386+16	Under Pennsylvania law, an individual commits the tort of trespass to chattels by intentionally dispossessing another person of a chattel or intermeddling with a chattel in another person's possession; if the interference with the owner's right of possession is sufficiently severe to permanently deprive him or her of that right, the trespass culminates in a conversion.	When does a trespass culminate into a conversion?	Trespass - Memo 132 - AKA.docx	ROSS-003283777-ROSS-003283778
Installit v. Carpenters 46 N. California Ctys. Conference Bd., 214 F. Supp. 3d 855	231H+1549(7)	Employer's unfair labor practice claim under the LMRA against union was arbitrable under the Federal Arbitration Act (FAA), even though arbitration agreement did not explicitly state that statutory claims could be resolved through arbitration and the LMRA established a right to sue for damages resulting from unfair labor practice; arbitration agreement was not required to contain clear, explicit statement that parties intended to arbitrate statutory claims, and fact that LMRA established a right to sue for unfair labor practices did not mean that federal courts retained exclusive jurisdiction over those suits. 9 U.S.C.A. S 1 et seq.; National Labor Relations Act S 8(b)(4), 29 U.S.C.A. S 158(b)(4); Labor Management Relations Act, 1947 S 303, 29 U.S.C.A. S 187.	Can statutory claims be the subject of an arbitration agreement?	007056.docx	LEGALEASE-00122400-LEGALEASE-00122401
Nat'l Leasing Corp. v. Williams, 80 F.R.D. 416	8.30E+10	Obligations of maker of note are determined by law of state designated on instrument as place of payment.	How are the obligations of the maker of the note determined?	Bills and Notes - Memo 49 - KC.docx	ROSS-003310982-ROSS-003310983
Universal Premium Acceptance Corp. v. York Bank & Tr. Co., 69 F.3d 695	83E+342	One requirement for negotiability is that instrument must be "payable to order or to bearer." 13 Pa.C.S.A. S 3104(a)(3).	Is it obligatory for a negotiable instrument to be payable to order or to bearer?	Bills And Notes- Negotiability-Memo 27-AM.docx	ROSS-003328795-ROSS-003328796

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City of Austin v. Travis Cty. Landfill Co., 73 S.W.3d 234	148+2.8	Landowner has no right to exclude overflights above its property, because airspace is part of the public domain, and thus a property owner is only entitled to compensation if its property is taken by overflights that immediately and directly interfere with the property's use and enjoyment, which inquiry requires a more extensive factual showing than the mere existence of overflights. U.S.C.A. Const.Amend. 5; Vernon's Ann.Texas Const. Art. 1, S 17.	Do a landowner have right to exclude overflights above its property?	Eminent Domain - Memo 200 - GP.docx	ROSS-003287300-ROSS-003287301
MetroplexCore v. Parsons Transp., 743 F.3d 964	226H+14	For purpose of determining whether a joint venture exists, Texas defines a "community of interest" as a commonly shared incentive between the parties as to the progress and goals of joint venturers.	What is a community of interest?	Partnership - Memo 155 - RK.docx	ROSS-003284261-ROSS-003284262
In re Copeland, 291 B.R. 740	289+453	Under Tennessee law, it is not necessary that parties intend to actually form a partnership or even that they know the legal result of their actions is to create a partnership.	Can a partnership be unintentionally formed by contract?	022751.docx	LEGALEASE-00122469-LEGALEASE-00122470
Scalp & Blade v. Advest, 309 A.D.2d 219	30+123	No appeal as of right lies from evidentiary ruling, whether made before or during trial, where ruling has not been embodied in formal order. McKinney's CPLR 5512.	"Does an order ruling on motion in limine, even when made in advance of trial on motion papers, constitute an advisory opinion, that is neither appealable as of right nor by permission?"	Pretrial Procedure - Memo # 180 - RM C.docx	ROSS-003284317-ROSS-003284318
Jackson v. Joyner, 309 S.W.3d 910	307A+3	A motion in limine is not subject to the same safeguards as a motion for summary judgment or for partial summary judgment.	Is a motion in limine subject to the same safeguards as a motion for summary judgment or for partial summary judgment?	026531.docx	LEGALEASE-00122273-LEGALEASE-00122274
Brokamp v. Mercy Hosp. Anderson, 132 Ohio App. 3d 850	307A+3	"Motion in limine" is a tentative, interlocutory, precautionary ruling by a trial court reflecting its anticipatory treatment of an evidentiary issue; in virtually all circumstances, finality does not attach when the motion is granted.	Does finality attach when a motion in limine is granted?	Pretrial Procedure - Memo # 248 - C - CRB.docx	LEGALEASE-00012235-LEGALEASE-00012236
Florida-Georgia Chem. Co. v. Nat'l Labs., 153 So. 2d 752	308+39	Revocation of agency becomes operative as to agent from time he has actual notice thereof, but notice to third parties will not effect revocation as to agent.	Should revocation of agency be communicated to the agent?	041291.docx	LEGALEASE-00122280-LEGALEASE-00122281
Illinois Commerce Comm'n v. Chicago Rys. Co., 362 Ill. 559	70+10	Regulation provided by Public Utilities Act is not for benefit of carrier alone, but convenience and need of public is of primary importance and was so contemplated by Legislature in enactment of the act. Smith-Hurd Stats. c. 1112/323, S 50.	Why does the Public Utilities Act contemplate supervision of every public utility?	Public Utilities - Memo 106 - AM.docx	LEGALEASE-00012359-LEGALEASE-00012361
McDonald v. Rentfrow, 176 Neb. 796	92+2403	The legislature may confer judicial power upon public boards or courts to determine facts and equities under which legislation authorizes changes in school district boundaries, and in delegating such power legislature must condition determination by court or board upon reasonable fact standards.	Is the function of determining whether the suggested boundaries for utilities are reasonable for public convenience and welfare legislative in nature?	042211.docx	LEGALEASE-00122219-LEGALEASE-00122220
In re Flamingo 55, 378 B.R. 893	366+1	"Statutory subrogation" occurs by virtue of a right created by statute.	Does statutory subrogation occur by virtue of a right created by statute?	Subrogation - Memo # 531 - C - NO.docx	ROSS-003324356-ROSS-003324357

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Smith, 740 F. Supp. 2d 1111	411+8	Under Chevron analysis, Forest Service's interpretation of "area" under Federal Lands Recreation Enhancement Act (FLREA), to include parking lots and undeveloped campsites was contrary to the clear language of the statute, which authorized charging of an amenity fee at national forest, but prohibited fee for undeveloped "areas" of forest; FLREA set out six specific listed amenities which were required before land could be considered "area," and parking lot and campsite did not have any of these requisite amenities. Federal Lands Recreation Enhancement Act, Div. J, S 803(d)(1), 16 U.S.C.A. S 6802(d)(1).	Can an amenity fee be charged for parking in an undeveloped site?	Woods and Forests - memo 20 - DM.docx	ROSS-003325504-ROSS-003325505
Ryan v. Gifford, 935 A.2d 258	106+13.6(6)	The passive receipt, holding and allowing to vest of allegedly backdated stock options by nonresident officers of Delaware corporation did not constitute a "continuing wrong," and thus personal jurisdiction could not be asserted, in derivative action brought in Delaware by shareholder alleging that officers breached their fiduciary duties in regard to backdated stock options, over nonresident officers who received stock options prior to effective date of nonresident officer implied consent statute, passively allowed options to vest after statute's effective date, but did not exercise the options. 10 West's Del.C. S 3114(b).	Is the continuing wrong doctrine a narrow one?	005440.docx	LEGALEASE-00122797-LEGALEASE-00122798
Dolezal v. Bockes, 602 N.W.2d 348	13+61	When a cause of action has accrued, the party owning the action has a vested interest in it.	Does the party owning the action has a vested interest when a cause of action has accrued?	Action - Memo # 127 - C - CS.docx	ROSS-003297537-ROSS-003297538
Grenier v. Med. Eng'g Corp., 99 F. Supp. 2d 759	13+61	Under Louisiana law, cause of action arises when plaintiff has right to sue.	Does a cause of action arise when plaintiff has right to sue?	Action - Memo # 135 - C - CS.docx	ROSS-003315465-ROSS-003315466
Fetzer v. Wood, 211 Ill. App. 3d 70	13+61	In personal injury action arising out of negligence, cause of action accrues at the time of injury.	"Does the cause of action accrue at the time of injury, in personal injury action?"	Action - Memo # 143 - C - CS.docx	ROSS-003297880-ROSS-003297881
Brown v. R.J. Reynolds Tobacco Co., 52 F.3d 524	241+43	Under Louisiana law, cause of action "accrues" when plaintiff may bring lawsuit.	Does a cause of action accrue when plaintiff may bring a lawsuit?	005569.docx	LEGALEASE-00123892-LEGALEASE-00123893
Shuck v. Bank of Am., N.A., 862 So. 2d 20	13+62	All elements of a cause of action must exist and be complete before an action may properly be commenced.	Should a cause of action exist and be completed before an action can be commenced?	Action - Memo # 171 - C - CS.docx	ROSS-003284283-ROSS-003284285
M.J. Farms, Ltd. v. Exxon Mobil Corp., 2007-2371 (La. 7/1/08)	13+61	A sine qua non for accrual of a cause of action is damages.	Are damages a sine qua non for accrual of a cause of action?	Action - Memo # 43 - C - LK.docx	LEGALEASE-00012657-LEGALEASE-00012658
In re Mueller, 19 Misc. 3d 536	13+61	It is the character of the claim which governs the accrual time for a cause of action.	Is it the character of the claim which governs the accrual time for a cause of action?	Action - Memo # 45 - C - LK.docx	ROSS-003323973-ROSS-003323974
Spicewood Summit Office Condominiums Ass'n v. Am. First Lloyd's Ins. Co., 287 S.W.3d 461	13+61	A party is unable to bring suit until the party's cause of action has accrued.	Is a party unable to bring suit until the party's cause of action has accrued?	005903.docx	LEGALEASE-00123388-LEGALEASE-00123389

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
O'Hara v. Mt. Vernon Bd. of Educ., 16 F. Supp. 2d 868	231H+1549(14)	Teacher was not required to submit to arbitration under collective bargaining agreement (CBA) her claims under the Family Medical Leave Act (FMLA), and could instead assert the claims in district court; the CBA did not purport to require arbitration of any and all grievances arising from teacher's employment, and Ohio statute excluded United States statutes from "supremacy" provision of the CBA. Family and Medical Leave Act of 1993, S 2 et seq., 29 U.S.C.A. S 2601 et seq.; Ohio R.C. S 4117.10(A).	Are contractual agreements to arbitrate Family and Medical Leave Act (FMLA) claims enforceable?	Alternative Dispute Resolution - Memo 388 - RK.docx	ROSS-003285694-ROSS-003285695
Arrigo v. Blue Fish Commodities, 704 F. Supp. 2d 299	25T+121	Congress did not intend former employee's claims for overtime compensation under Fair Labor Standards Act (FLSA) to be non-arbitrable, and thus arbitration of claims could be compelled. Fair Labor Standards Act of 1938, S 1 et seq., 29 U.S.C.A. S 201 et seq.	Are Fair Labor Standards Act (FLSA) claims arbitrable?	007107.docx	LEGALEASE-00123774-LEGALEASE-00123775
Parisi v. Goldman, Sachs & Co., 710 F.3d 483	25T+124	As a general matter, Title VII claims can be subject to mandatory arbitration. Civil Rights Act of 1964, S 701 et seq., 42 U.S.C.A. S 2000e et seq.	Can Title VII claims be subjected to mandatory arbitration?	007132.docx	LEGALEASE-00123888-LEGALEASE-00123889
State v. Pierre, 131 So. 3d 319, 324	110+312	Specific intent may be inferred from the circumstances surrounding the accused's actions.	Can the specific intent be established by the circumstances surrounding an accused's actions for murder?	019345.docx	LEGALEASE-00123556-LEGALEASE-00123557
State v. Wrenn, 279 N.C. 676	203+540	Murder in first degree is unlawful killing of human being with malice and with premeditation and deliberation. G.S. S 14-17.	What constitutes murder in the first degree?	019352.docx	LEGALEASE-00123652-LEGALEASE-00123653
Omar v. Geren, 689 F. Supp. 2d 1	221+136	Jurisdiction of a nation within its own territory is necessarily exclusive and absolute.	Is jurisdiction of a nation within its own territory necessarily exclusive and absolute?	International Law - Memo # 11- C - LK.docx	ROSS-003285279-ROSS-003285280
Republic of Iraq v. ABB AG, 768 F.3d 145	221+342	Act of state doctrine does not bar adjudication of the consequences of a foreign act.	Does the act of state doctrine bar adjudication of the consequences of a foreign act?	020492.docx	LEGALEASE-00123643-LEGALEASE-00123645
Doe v. Exxon Mobil Corp., 69 F. Supp. 3d 75	221+387	Burden of proving that an act of state occurred lies with the party asserting the defense.	Who bears the burden of proving that an act of state occurred?	020776.docx	LEGALEASE-00123590-LEGALEASE-00123591
Doe v. Qi, 349 F. Supp. 2d 1258	221+342	Act of state doctrine is not compelled by international law and is not controlled by international law.	Is the act of state doctrine compelled or controlled by international law?	020801.docx	LEGALEASE-00123725-LEGALEASE-00123726
Access Telecom v. MCI Telecommunications Corp., 197 F.3d 694	221+388	Recognizing the difficulty of interpreting foreign law, courts may defer to foreign government interpretations.	Can courts defer to a foreign government interpretation?	International Law - Memo 358 -SB.docx	ROSS-003324453-ROSS-003324455
Cortiza v. Rosenblat, 291 So.2d 425	289+701	Members of an ordinary partnership are not bound in solido for partnership debts; each partner in such a partnership is bound only for his virile share of the debt. LSA-C.C. arts. 2872, 2873.	Is each partner bound for his share of partnership debt?	021889.docx	LEGALEASE-00122829-LEGALEASE-00122830
Speake v. Prewitt, 6 Tex. 252	289+474	A dormant partner is one who participates in the profits of the partnership, but whose name is not mentioned in the firm, or embraced under general terms in the firm name.	Who is a dormant partner?	021902.docx	LEGALEASE-00123270-LEGALEASE-00123272
Mauldin v. Branch Bank of Mobile, 2 Ala. 502	289+960	Actual notice of the dissolution of a partnership must be given to persons who have had dealings with the firm, or the retiring partner will continue liable for contracts made with them in the name of the firm after dissolution.	Is it necessary to give actual notice of dissolution of partnership to the persons who had dealings with the firm?	021905.docx	LEGALEASE-00123299-LEGALEASE-00123300
Merlino v. W. Coast Macaroni Mfg. Co., 90 Cal. App. 2d 106	302+192(2)	A demurrer for uncertainty will not lie even as to uncertain and ambiguous allegations if such allegations refer to immaterial matters, and in such event they will be treated as surplusage and will be disregarded.	Does a demurer for uncertainty lie as to immaterial matters?	022967.docx	LEGALEASE-00123515-LEGALEASE-00123516

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Bova v. Gary, 843 N.E.2d 952	307A+3	The granting of a motion in limine does not determine the ultimate admissibility of the evidence.	Does the granting of a motion in limine determine the ultimate admissibility of the evidence?	024064.docx	LEGALEASE-00123085-LEGALEASE-00123086
Neal v. Nimmagadda, 279 Ill. App. 3d 834	307A+3	Motion in limine to exclude inadmissible evidence may be brought either before or during trial.	May a motion in limine to exclude inadmissible evidence be brought either before or during trial?	032276.docx	LEGALEASE-00122856-LEGALEASE-00122858
Duran v. Hyundai Motor Am., 271 S.W.3d 178	307A+3	A motion in limine should not be used as a substitute for a dispositive motion such as a motion for summary judgment.	Should a motion in limine be used as a substitute for a dispositive motion such as a motion for summary judgment?	Pretrial Procedure - Memo 374 - RK.docx	ROSS-003298697-ROSS-003298698
State v. Grubb, 28 Ohio St. 3d 199	110+1035(2)	At trial, it is incumbent upon defendant, who has been temporarily restricted from introducing evidence by virtue of grant of motion in limine in favor of State, to seek introduction of the evidence by proffer or otherwise in order to enable trial court to make final determination as to its admissibility and to preserve any objection on record for purposes of appeal.	Is a motion in limine a means of raising objection to an area of inquiry to prevent prejudicial questions and statements until the admissibility of the questionable evidence can be determined during the course of the trial?	Pretrial Procedure - Memo 383 - RK.docx	LEGALEASE-00013972-LEGALEASE-00013973
Brokamp v. Mercy Hosp. Anderson, 132 Ohio App. 3d 850	307A+3	"Motion in limine" is a tentative, interlocutory, precautionary ruling by a trial court reflecting its anticipatory treatment of an evidentiary issue; in virtually all circumstances, finality does not attach when the motion is granted.	"For motions in limine, does finality attach when the motion is granted?"	041204.docx	LEGALEASE-00122966-LEGALEASE-00122967
City of Pasadena v. R.R. Comm'n of California, 183 Cal. 526	317A+145.1	Const. art. 12, S 22, authorizing the Legislature to confer additional powers of the same kind or different from those conferred on the Railroad Commission, does not authorize the Legislature to confer upon the commission powers not germane to the purpose for which it was created.	Are the powers conferred on the Railroad commission cognate and germane to the purposes for which it was created?	042233.docx	LEGALEASE-00122813-LEGALEASE-00122815
State v. Lone Star Gas Co., 86 S.W.2d 484	190+14.5(6)	Statutory appeal to determine whether natural gas rate is confiscatory or unreasonable and unjust is merely corrective, and question to be decided by court is not whether court would make same order as was made by Railroad Commission, but is whether commission acted reasonably upon sufficient evidence, and whether any substantial right of party appealing from order had been infringed. Vernon's Ann.Civ.St. art. 6059.	Is ratemaking delegated only to the Railroad Commission?	Public Utilities - Memo 123 - AM.docx	LEGALEASE-00013999-LEGALEASE-00014000
Broadvox-CLEC v. AT&T Corp., 184 F. Supp. 3d 192	317A+111	A court may interpret a tariff by reference to sources other than the language in the tariff itself only when it is ambiguous, so that a literal reading is impossible.	Does the language of a tariff have different possible interpretations if it is unambiguous?	042248.docx	LEGALEASE-00123484-LEGALEASE-00123485
PECO Energy Co. v. Twp. of Upper Dublin, 922 A.2d 996	317A+111	Public utility tariffs have the force and effect of law, and are binding on the customer as well as the utility.	Are public utility tariffs binding on the customer and the utility?	Public Utilities - Memo 137 - AM.docx	ROSS-003283879-ROSS-003283880
Ray v. Leader Fed. Sav. & Loan Ass'n, 40 Tenn. App. 625	368+1	"Suicide" is the willful and voluntary act of a person who understands the physical nature of the act, and intends by it to accomplish the result of self termination.	Is suicide a voluntary crime?	044460.docx	LEGALEASE-00122550-LEGALEASE-00122551
Aven v. State, 102 Tex. Crim. 478	368+3	One placing poison in mouth of suicide, at suicide's request, knowing intent, guilty of murder.	Is a person guilty of murder if he places poison inside the victims mouth with the intent to help the victim commit suicide?	044485.docx	LEGALEASE-00122740-LEGALEASE-00122741
Davidson v. Bugbee, 227 Mich. App. 264	13+61	Cause of action accrues when all the elements of claim have occurred and can be alleged in proper complaint.	Does a cause of action accrue only when all the necessary elements have occurred?	Action - Memo # 181 - C - PHS.docx	ROSS-003283804-ROSS-003283805
Patterson v. Tenet Healthcare, 113 F.3d 832	25T+121	Title VII claims are subject to individual consensual agreements to arbitrate. Civil Rights Act of 1964, S 701 et seq., 42 U.S.C.A. S 2000e et seq.	Are Title VII claims subject to arbitration agreements?	007101.docx	LEGALEASE-00124914-LEGALEASE-00124915

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In re Kaplan, 143 F.3d 807	25T+130	Arbitration agreement may limit its preclusive effects. Restatement (Second) of Judgments S 84(4).	Can an arbitration agreement limit its preclusive effect?	Alternative Dispute Resolution - Memo 416 - RK.docx	ROSS-003300666-ROSS-003300667
Adams v. Suozzi, 433 F.3d 220	25T+132	If the contract embodying a purported arbitration agreement never existed, the arbitration agreement itself does not exist.	How do courts construe an arbitration agreement if the contract embodying the purported arbitration agreement never existed?	Alternative Dispute Resolution - Memo 417 - RK.docx	ROSS-003284978-ROSS-003284979
Sumaza v. Coop. Ass'n, 297 F. Supp. 345	25T+132	Arbitration agreement need not follow particular form or phraseology.	Does an arbitration agreement need to follow any particular form or phraseology?	Alternative Dispute Resolution - Memo 422 - RK.docx	ROSS-003284595-ROSS-003284596
Sapiro v. VeriSign, 310 F. Supp. 2d 208	25T+134(2)	Mutual agreements to arbitrate are independently sufficient forms of consideration.	Are mutual agreements to arbitrate independently sufficient forms of consideration?	Alternative Dispute Resolution - Memo 434 - RK.docx	ROSS-003298729-ROSS-003298730
City of New York v. Consol. Edison Co. of New York, 274 A.D.2d 189	148+2.1	Not every regulatory intrusion on property rights amounts to a taking. U.S.C.A. Const.Amend. 5.	Does every regulatory intrusion on property rights amounts to a taking?	Eminent Domain - Memo 231 - GP.docx	ROSS-003283873-ROSS-003283874
Commonwealth Edison Co. v. United States, 46 Fed. Cl. 29	148+2.2	A government-imposed obligation to pay "money" is not susceptible to a taking analysis.	Is a government-imposed obligation to pay money susceptible to a taking analysis?	Eminent Domain - Memo 237 - GP.docx	ROSS-003298799-ROSS-003298800
Doe v. Qi, 349 F. Supp. 2d 1258	221+342	Act of state doctrine is not compelled by international law and is not controlled by international law.	Is the act of state doctrine neither compelled nor controlled by international law?	International Law - Memo # 302 - C - ES.docx	ROSS-003296985-ROSS-003296986
Aguinda v. Texaco, 142 F. Supp. 2d 534	170B+2971	Court would dismiss, on forum non conveniens grounds, tort suit brought by claimants alleging damages arising out of negligent management of oil pipelines on land owned by Ecuadorian government, even though suit included claim under Alien Tort Claims Act, which provided federal forum for aliens suing United States entities for violations of law of nations; alleged conduct of oil company being sued was not sufficiently egregious. 28 U.S.C.A. S 1350.	Does the Alien Tort Statute (ATS) apply only to shockingly egregious violations of universally recognized principles of international law?	020241.docx	LEGALEASE-00124699-LEGALEASE-00124701
Bank Tejarat v. Varsho-Saz, 723 F. Supp. 516	221+387	Burden of establishing applicability of act of state doctrine rests on proponent.	Does the burden of establishing applicability of an act of state doctrine rest on the proponent?	International Law - Memo # 422 - C - MLS.docx	ROSS-003283673-ROSS-003283674
Honduras Aircraft Registry Ltd. v. Gov't of Honduras, 883 F. Supp. 685	221+342	Exceptions to act of state doctrine include those acts by foreign state that are purely commercial or for which no foreign policy goal of the executive branch is impeded.	Is the act of state doctrine primarily designed to avoid impingement by judiciary upon conduct of foreign policy by Executive Branch?	020524.docx	LEGALEASE-00124267-LEGALEASE-00124268
Interamerican Ref. Corp. v. Texaco Maracaibo, 307 F. Supp. 1291	221+351	Anticompetitive practices compelled by foreign nations are not restraints of commerce, as commerce is understood in the Sherman Act, because refusal to comply would put an end to commerce. Sherman Anti-Trust Act, SS 1, 2, 15 U.S.C.A. SS 1, 2.	Are anticompetitive practices compelled by foreign nations violations of the Sherman Act?	020540.docx	LEGALEASE-00124478-LEGALEASE-00124479
Dominicus Americana Bohio v. Gulf & W. Indus., 473 F. Supp. 680	221+351	Conduct related to commercial endeavors is not immunized by the act of state doctrine.	Is conduct related to commercial endeavors immunized by the act of state doctrine?	020555.docx	LEGALEASE-00124358-LEGALEASE-00124359

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R.M.S. Titanic v. Haver, 171 F.3d 943	221+334	Beyond territorial waters lie the high seas, over which no nation can exercise sovereignty.	Can a nation exercise sovereignty over the high seas?	International Law - Memo # 807 - C - ANC.docx	ROSS-003285101-ROSS-003285105
Johnson v. Citimortgage, 351 F. Supp. 2d 1368	237+7(1)	Under Georgia law, "libel per se" is publication charging that one is guilty of crime, dishonesty, or immorality. West's Ga.Code Ann. S 51-5-1.	Is charging someone with immorality or dishonesty libel per se?	021083.docx	LEGALEASE-00124926-LEGALEASE-00124927
Story v. Lanier, 166 S.W.3d 167	289+507	What will constitute a partnership is a matter of law, but whether a partnership exists under conflicting evidence is one of fact. West's T.C.A. S 61-1-101(6).	Is the existence of a partnership a question of fact of law?	021821.docx	LEGALEASE-00124846-LEGALEASE-00124847
Davis v. Quality Pest Control, 641 S.W.2d 324	302+8(6)	If opposing party is not misled and if no special exceptions have been filed, petition may even allege legal conclusions.	Can a legal conclusion be plead?	022976.docx	LEGALEASE-00125374-LEGALEASE-00125375
Brown v. Am. Transfer & Storage Co., 601 S.W.2d 931	30+4251	To be reversible, variance between pleadings and proof must be substantial, misleading, constitute surprise, and be a prejudicial departure from the pleadings.	When will a variance between the pleading and the proof of claim be fatal?	022999.docx	LEGALEASE-00125273-LEGALEASE-00125274
Connecticut Light & Power Co. v. Gilmore, 289 Conn. 88	307A+3	A trial court may entertain a motion in limine made by either party regarding the admission or exclusion of anticipated evidence. Practice Book 1998, S 42-15.	Has the motion in limine generally been used in courts to invoke a trial judge's inherent discretionary powers to prevent occurrences that might unnecessarily prejudice the right of any party to a fair trial?	024348.docx	LEGALEASE-00125308-LEGALEASE-00125310
Windus v. Great Plains Gas, 255 Iowa 587	307A+1	To expedite litigation is one of the chief objectives of the rules of civil procedure. 58 I.C.A. Rules of Civil Procedure, rules 215.1, 252, 253.	What is one of the chief objectives of the rules of civil procedure?	Pretrial Procedure - Memo # 475 - C - HAM.docx	ROSS-003297415-ROSS-003297416
Lamb v. Geovjian, 165 Vt. 375	307A+3	Trial court has broad discretion in its pretrial evidentiary rulings.	Does a trial court have broad discretion in its pretrial evidentiary rulings?	Pretrial Procedure - Memo # 506 - C - LK.docx	ROSS-003298354-ROSS-003298355
Compton v. Ubilluz, 353 Ill. App. 3d 863	307A+3	To prevent confusion and misunderstanding during trial, both the motion in limine and the resulting order should be in writing.	Should both the motion in limine and the resulting order be in writing?	Pretrial Procedure - Memo # 845 - C - KA.docx	ROSS-003298706-ROSS-003298707
Pink Dot v. Teleport Commc'ns Grp., 89 Cal. App. 4th 407	317A+111	If there is an ambiguity in a tariff, any doubt in its interpretation is to be resolved in favor of the nondrafter and against the utility. West's Ann.Cal. Civil Code 4F 1654.	Should the interpretation of an ambiguous tariff be resolved in favor of the non-drafter and against the utility?	Public Utilities - Memo 145 - AM.docx	ROSS-003298714-ROSS-003298715
Bank of New York v. Nally, 820 N.E.2d 644	366+1	Application of the doctrine of equitable subrogation depends on the equities and attending facts and circumstances of each case.	On what does the application of equitable subrogation depend?	044404.docx	LEGALEASE-00125107-LEGALEASE-00125108
State Bd. of Ret. v. Bulger, 446 Mass. 169	79+1	A clerk of a court is a public officer clothed with official functions of a highly important nature.	Is a clerk of a court a public officer?	013350.docx	LEGALEASE-00125712-LEGALEASE-00125713
Com., Dep't of Health v. Hanes, 78 A.3d 676	253+236	Official duty of clerk of Orphans' Court of issuing marriage licenses did not give clerk discretion to determine whether provision of state Marriage Law, defining marriage as being between one man and one woman, was constitutional; clerk was not an administrative officer with discretion to interpret statutes, and marriage license statute did not authorize clerk to exercise any discretion or judgment with respect to its provisions. 23 Pa.C.S.A. SS 1102, 1302(a, b); 42 Pa.C.S.A. S 2757.	Is a prothonotary an administrative officer who has the discretion to interpret statutes?	013518.docx	LEGALEASE-00125681-LEGALEASE-00125683
Cook v. City of Topeka, 232 Kan. 334	79+1	A clerk of a court is a ministerial officer and, without statutory authority, cannot exercise a judicial function.	Is a clerk of the court a ministerial officer?	Clerks of court - Memo 8-VP.docx	ROSS-003285980-ROSS-003285981

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Foster v. Shubert Holding Co., 316 Mass. 470	302+214(4)	Conclusions of fact unless they are necessary inferences from the particular facts alleged are not admitted by a demurrer.	Are necessary inferences from facts admitted by a demurrer?	023009.docx	LEGALEASE-00125632- LEGALEASE-00125634
Nat'l Fuel Gas Distribution Corp. v. Pennsylvania Pub. Util. Comm'n, 76 Pa. Cmwlth. 102	317A+128	As general matter, utility management is in hands of utility and Public Utility Commission may not interfere with lawful management decisions, including decisions related to necessity and propriety of operating expenses, unless, on basis of record evidence, it finds abuse of utility's managerial discretion.	Does the Public Utilities Commission have the power to interfere with the general management decisions of the public utilities without express legislative authority?	042312.docx	LEGALEASE-00125642- LEGALEASE-00125643
Petition of New England Tel. & Tel. Co., 115 Vt. 494	317A+111	The function of a public service commission is that of control and not of management, and regulation should not obtrude itself into the place of management.	Is management the function of the Public Service Commission?	Public Utilities - Memo 164 - AM.docx	LEGALEASE-00015621- LEGALEASE-00015622
State v. Wilson, 127 N.C. App. 129	352H+94	The intent required for attempted rape of a child is the intent to accomplish the criminal result: to have sexual intercourse. West's RCWA 9A.28.020(1), 9A.44.076(1).	Is intent an element in the attempted rape of a child?	042918.docx	LEGALEASE-00125696- LEGALEASE-00125697
Baggett v. Hewlett-Packard Co., 582 F. Supp. 2d 1261	386+6	Allegations that manufacturer of printers and ink toner cartridges programmed its printers to stop printing when ink cartridges were not empty, thus depriving consumers of the remaining ink, were sufficient to state claim for trespass to chattels.	Does the law recognize trespass committed by programming a technological or electronic entity?	Trespass - Memo 162 - RK.docx	LEGALEASE-00015716- LEGALEASE-00015717
eBay v. Bidder's Edge, 100 F. Supp. 2d 1058	386+6	Under California law, claim for "trespass to chattels" lies where intentional interference with possession of personal property has proximately caused injury.	What constitutes a valid trespass to chattels claim?	047220.docx	LEGALEASE-00125824- LEGALEASE-00125825
Hawkins v. Hawkins, 101 N.C. App. 529	386+6	Actual damage is not essential element of cause of action for trespass to chattels, except by dispossession.	Does the cause of action for trespass to chattels require actual damage?	047247.docx	LEGALEASE-00125838- LEGALEASE-00125839
Gallizzi v. Williams, 218 So. 2d 499	13+61	Cause of action in slander accrues at time of alleged publication.	Does a cause of action in slander accrue at the time of alleged publication?	Action - Memo # 137 - C - MS.docx	ROSS-003285708-ROSS- 003285709
Lathrop v. McBride, 209 Neb. 351	241+55(1)	Cause of action for slander or libel accrues on date of publication of defamatory matter. Neb.Rev.St. S 25-208.	Does a cause of action in slander accrue at the time of alleged publication?	005357.docx	LEGALEASE-00126134- LEGALEASE-00126135
Williams Companies v. Dunkelgod, 2012 OK 96, 295 P.3d 1107	13+61	Cause of action accrues when plaintiff could have first maintained an action.	Does a cause of action ordinarily accrue when plaintiff could first maintain an action to a successful result?	005359.docx	LEGALEASE-00126141- LEGALEASE-00126142
Martin v. Farm & Home Sav. & Loan Ass'n of Missouri, 81 S.W.2d 779	13+61	Cause of action to recover debt does not mature until debt matures or becomes due.	Can a cause of action to recover debt mature until debt matures or becomes due?	Action - Memo # - C 306-UG.docx	ROSS-003303321-ROSS- 003303322
Forman v. Mississippi Publishers Corp., 195 Miss. 90	13+61	A cause of action "accrues" when it comes into existence as an enforceable claim, that is, when the right to sue becomes vested.	Does a cause of action accrue at the place where it come into existence as an enforceable claim?	Action- Memo # C - 338-SHB.docx	ROSS-003312809-ROSS- 003312810
McKinley v. United States, 249 U.S. 397	34+1	Congress has authority to make rules and regulations for protection of the health and welfare of those composing the armies raised by it.	Does the congress have the authority to raise and support armies?	008726.docx	LEGALEASE-00126284- LEGALEASE-00126285
Nat'l Westminster Bank, USA v. State, 76 N.Y.2d 507	104+146	As clerk of courts, county clerk is state officer for whom State is responsible; but when performing general duties, county clerk acts as local officer, and local government must answer for actions taken.	Are state governments responsible for the actions of a county clerk?	013428.docx	LEGALEASE-00126282- LEGALEASE-00126283

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Bormann v. Bd. of Sup'rs In & For Kossuth Cty., 584 N.W.2d 309	148+85	Easements are property interests subject to the just compensation requirements of state and federal constitutions. U.S.C.A. Const.Amends. 5, 14; I.C.A. Const. Art. 1, S 18.	Are easements subject to the just compensation requirements of the Fifth Amendment to the Federal Constitution?	017584.docx	LEGALEASE-00126014-LEGALEASE-00126015
K & K Const. v. Dep't of Nat. Res., 456 Mich. 570	148+221	Determining size of denominator parcel to be analyzed in takings analysis is inherently a factual inquiry. U.S.C.A. Const.Amend. 5; M.C.L.A. Const. Art. 10, S 2.	Is determining the size of the denominator parcel a factual inquiry under the taking laws?	017599.docx	LEGALEASE-00126179-LEGALEASE-00126180
United States v. Ibarguen-Mosquera, 634 F.3d 1370	221+334	Objective, protective, and territorial principles of international law only apply to laws that govern the conduct of flagged vessels.	"Do objective, protective, and territorial principles of international law only apply to stateless vessels?"	International law - Memo # 791 - C - MS.docx	ROSS-003299587-ROSS-003299589
United States v. Juda, 46 F.3d 961	221+321	Under international law, nation may generally assert jurisdiction over its citizens.	"Under international law, can a nation assert jurisdiction over its citizens?"	International Law - Memo # 835 - C - BP.docx	ROSS-003298657-ROSS-003298658
R.M.S. Titanic v. Haver, 171 F.3d 943	221+334	Beyond territorial waters lie the high seas, over which no nation can exercise sovereignty.	Can any nation exercise sovereignty over the high seas?	020672.docx	LEGALEASE-00126058-LEGALEASE-00126059
City of Coahoma v. Pub. Util. Comm'n of Texas, 626 S.W.2d 488	405+2096	Term "public utility" used in "grandfather certificate" section of the Public Utilities Regulatory Act includes "retail public utility" as defined in section providing that for purpose of article dealing with certificates of convenience and necessity "retail public utility" means any person, corporation, water supply or sewer service corporation, or municipality operating facilities for providing retail utility service. Vernon's Ann.Civ.St. art. 1446c, SS 1 et seq., 3, 3(b, c), 49 et seq., 53.	Does the term public utility include retail public utility?	042379.docx	LEGALEASE-00126328-LEGALEASE-00126329
State v. Campbell Cty. Sch. Dist., 2001 WY 19	352H+119	Consent or reasonable mistake as to age of victim is no defense to charge of first-degree sexual assault on child. Neb.Rev.St. S 28-319(1)(c).	Is consent a defense to first degree sexual assault on a child?	Sex Offence - Memo 34 - BP.docx	LEGALEASE-00016168-LEGALEASE-00016169
U. S. Fid. & Guar. Co. v. First State Bank of Salina, 208 Kan. 738	366+8	When a surety on a construction contractor's bond is required to remedy default of its principal, it is subrogated to rights of contractor, laborers and materialmen whose bills it pays, and owner of project.	"Is a surety subrogated to rights of contractor, laborers and materialmen, acquire the rights of its principal?"	044245.docx	LEGALEASE-00125876-LEGALEASE-00125877
City of Amsterdam v. Daniel Goldreyer, Ltd., 882 F. Supp. 1273	386+6	Trespass to chattel occurs when party intentionally damages or interferes with use of property belonging to another. Restatement (Second) of Torts SS 217-221.	When does a trespass to chattel occur?	Trespass - Memo 192 - RK.docx	ROSS-003327334-ROSS-003327335
People, to Use of Tritch v. Cramer, 15 Colo. 155	13+61	When a contract, express or implied, is violated, a cause of action at once accrues. The same is true of torts constituting a trespass upon person or property; also of torts in connection with which assumpsit might have been maintained at the common law.	"Does a cause of action at once accrue when a contract, express or implied, is violated?"	005455.docx	LEGALEASE-00126408-LEGALEASE-00126409
Johnson v. Gupta, 682 N.E.2d 827	92+2311	Open courts provision of State Constitution does not require that every plaintiff have remedy for injuries suffered, and there may be claim or demand without any right to sue for its recovery. West's A.I.C. Const. Art. 1, S 12.	Can there be a claim or demand without any right to sue for its recovery?	005485.docx	LEGALEASE-00126402-LEGALEASE-00126403
Nat'l Union Fire Ins. Co. of Pittsburgh, PA v. Keck, Mahin & Cate, 154 S.W.3d 714	13+61	Because damages are an element of a legal-malpractice claim, the claim does not accrue until the client discovers, or should have discovered, it was legally injured.	Does a legal malpractice claim accrue when the client discovers or should have discovered that he was legally injured?	005557.docx	LEGALEASE-00126526-LEGALEASE-00126527

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Broyles v. Com., 309 Ky. 837	13+61	An action cannot be maintained if commenced before accrual of cause of action sought to be enforced.	Can an action be maintained if commenced before accrual of cause of action sought to be enforced?	Action - Memo # 233 - C - Kl.docx	ROSS-003285739-ROSS-003285740
Highline Sch. Dist. No. 401, King Cty. v. Port of Seattle, 87 Wash. 2d 6	13+61	Cause of action accrues on occurrence of last element essential to such action.	Does cause of action accrue on occurrence of last element essential to the action?	005759.docx	LEGALEASE-00126587-LEGALEASE-00126588
Kane Cty. v. Carlson, 116 Ill. 2d 186	79+1	Circuit clerk is nonjudicial officer of judicial branch of government. S.H.A. Const. Art. 6, S 18(b).	Are circuit clerks non-judicial officers of the judicial branch of the government?	013432.docx	LEGALEASE-00126760-LEGALEASE-00126761
Royston v. Pima Cty., 106 Ariz. 249	79+1	Clerk of superior court is part of judicial branch of government. A.R.S. S 11-401; A.R.S.Const. art. 3; art. 6, S 23.	Is a clerk of a superior court a part of the judicial branch of the government?	Clerks of Court - Memo 31 - RK.docx	ROSS-003286666-ROSS-003286667
Royston v. Pima Cty., 106 Ariz. 249	79+1	Judiciary has power to supervise operation of office of clerk of superior court. A.R.S. S 11-401; A.R.S.Const. art. 3; art. 6, S 23.	Does the judiciary have the power to supervise the operations of the office of the clerk of a superior court?	Clerks of Court - Memo 32 - RK.docx	LEGALEASE-00016480-LEGALEASE-00016481
Haywood v. Ryan, 85 N.J.L. 116	129+108	Act Concerning Disorderly Persons, S 3, applies only to such persons as shall by their act obstruct or interfere with the movement of persons lawfully on the street.	Is a person who obstructs or interferes with any person lawfully in streets or public places a disorderly person?	Disorderly Conduct-Memo 28- ANG.docx	LEGALEASE-00016518-LEGALEASE-00016519
Long Island Water-Supply Co. v. City of Brooklyn, 166 U.S. 685	148+45	A contract is property which may be taken by condemnation proceedings for public use.	Can a contract be taken under condemnation proceedings for public use?	017633.docx	LEGALEASE-00126659-LEGALEASE-00126660
Kelley v. Mallory, 202 Or. 690	302+32	When instrument relied on is set out in full in pleading, it prevails over allegations as to its legal effect.	Will an instrument prevail over allegations as to its legal effect?	023050.docx	LEGALEASE-00126702-LEGALEASE-00126703
Lyerly v. Yeadon, 199 S.C. 363	13+63	"Laches" ordinarily involves not only neglect to enforce a legal or equitable right but also such a change in conditions as to prejudice the right of one of the parties in making his defense and render inequitable the enforcement of the claim sought to be asserted.	Does mere neglect for a time to enforce a legal right constitutes laches?	005400.docx	LEGALEASE-00126869-LEGALEASE-00126870
D.O.F. v. Lewisburg Area Sch. Dist. Bd. of Sch. Directors, 868 A.2d 28	1.41E+31	When schools act outside their statutory authority, courts can intervene.	Can the courts intervene when schools act outside their statutory authority?	016794.docx	LEGALEASE-00127058-LEGALEASE-00127059
In re Methyl Tertiary Butyl Ether (MTBE) Prod. Liab. Litig., 725 F.3d 65	279+59	Under New York law, a public nuisance is an offense against the state and is subject to abatement or prosecution on application of the proper governmental agency.	Who can abate public nuisance in a highway?	Highways - Memo 13 - BP.docx	LEGALEASE-00016892-LEGALEASE-00016893
Carlson v. Lindauer, 119 Cal. App. 2d 292	302+8(11)	Where an allegation of ownership is expressly predicated on specific averments in suit to quiet title, allegation of ownership is a mere conclusion of law and may be disregarded.	Should an allegation of ownership be disregarded?	023087.docx	LEGALEASE-00127154-LEGALEASE-00127155
KBD & Assocs. v. Great Lakes Foam Techs., 295 Mich. App. 666	308+81(5)	Sales agents are entitled to post-termination commissions for sales they procured during their time at the former employer.	Is an agent entitled to post termination commission for sales they procured?	041308.docx	LEGALEASE-00126923-LEGALEASE-00126924
Pub. Serv. Comm'n v. Formal Complaint of WWZ Co., 641 P.2d 183	317A+113	A private sewage disposal company does not fall within the statute defining a "public utility" within the jurisdiction of the Public Service Commission as including every person that owns, operates, leases, controls, or has power to operate, lease or control any plant, property or facility for the supply, storage, distribution or furnishing to or for the public of water for manufacturing, municipal, agriculture or domestic uses, except and excluding any such plant, property or facility owned by a municipality. W.S. 1977, SS 37-1-101(a)(vi)(E), 37-2-127.	Is a disposal company or its operation thereof a public utility?	042418.docx	LEGALEASE-00126859-LEGALEASE-00126860

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Gen. Commc'ns Sys. v. State Corp. Comm'n, 216 Kan. 410	317A+113	The word "necessity" as used in public utility law generally means a public need without which the public is inconvenienced to the extent of being handicapped. K.S.A. 66-101 et seq.	What does the word necessity imply in reference to public utilities?	042426.docx	LEGALEASE-00126936-LEGALEASE-00126937
Touchet Valley Grain Growers v. Opp & Seibold Gen. Const., 119 Wash. 2d 334	366+35	Parties to contract may waive their subrogation rights and, absent fraud, waiver will be valid and enforceable.	Are anti-subrogation waivers valid and enforceable?	043286.docx	LEGALEASE-00127078-LEGALEASE-00127079
Albany Ins. Co. v. United Alarm Servs., 194 F. Supp. 2d 87	366+35	Contractual waiver of subrogation rights is enforceable, under Connecticut law, if waiver is clear and unambiguous.	Is a contractual waiver of subrogation rights enforceable if the waiver is clear and unambiguous?	Subrogation - Memo # 1259 - C - SKG.docx	ROSS-003285416-ROSS-003285417
S. Mut. Church Ins. Co. v. ARS Mech., 306 Ga. App. 748	294+89(5)	The party seeking to recover payment bears the burden of showing that the voluntary-payment doctrine does not apply.	"Who bears the burden of showing the inapplicability of the voluntary payment doctrine, under law?"	Subrogation - Memo # 975 - C - TJ.docx	LEGALEASE-00017090-LEGALEASE-00017091
Day Cruises Mar., L.L.C v. Christus Spohn Health Sys., 267 S.W.3d 42	366+41(6)	Burden is on the party claiming equitable subrogation to establish he is entitled to it.	Is the burden on the party claiming equitable subrogation to establish he is entitled to it?	Subrogation - Memo # 982 - C - NC.docx	ROSS-003290415-ROSS-003290416
Keefer v. Spohrer, 168 Kan. 331	13+65	Ordinarily, a plaintiff's right to recover, if any, is to be determined as of time action is commenced.	Is a plaintiff's right to recover to be determined as of the time action is commenced?	005962.docx	LEGALEASE-00127952-LEGALEASE-00127953
In re Galewitz' Estate, 3 A.D.2d 280	13+65	Equity need not speak with finality until the decree, and when it does, it does with reference to the facts, the law, and equities then existing.	Does equity need not speak with finality until the decree?	006083.docx	LEGALEASE-00127834-LEGALEASE-00127836
Jose v. Lyman, 316 Mass. 271	13+63	Laches is not to be imputed to a minor and no exception is made of infants under guardianship.	Is laches to be imputed to a minor and no exception is made of infants under guardianship?	Action - Memo # 878 - C - Kl.docx	ROSS-003286563-ROSS-003286564
Jones v. Foote, 165 Conn. 516	13+65	A court will grant equitable relief, injunctive or otherwise, only on situation as it exists at time of trial.	Does equity deal only with the situation existing at the time of trial?	Action - Memo # 894 - C - VA.docx	ROSS-003285851-ROSS-003285853
Perpich v. U.S. Dep't of Def., 880 F.2d 11	34+1	Authority given to Congress by the army clause is plenary and exclusive. U.S.C.A. Const. Art. 1, S 8, cl. 12.	Is the authority given to Congress by the army clause plenary and exclusive?	008363.docx	LEGALEASE-00128099-LEGALEASE-00128100
Sch. Dist. No. One Fractional, Ira Twp. v. Sch. Dist. No. Two Fractional, Chesterfield	1.41E+13	Under Michigan laws and constitution, school matters are subject to state legislature's control and are matters of state concern.	Is education a matter of interest and concern for the state and subject to the control of the legislature?	Education - Memo # 38 - C - SU.docx	LEGALEASE-00017570-LEGALEASE-00017572
People ex rel. Buffalo Util. Co. v. Vill. of Buffalo Grove, 85 Ill. App. 2d 382	183+5	There is nothing to prevent municipally owned utility from competing directly in same area of operation with privately owned utility. S.H.A. ch. 1112/323, SS 10.3, 56.	Can municipal businesses compete with private utility businesses?	042467.docx	LEGALEASE-00128086-LEGALEASE-00128087

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RLI Ins. Co. v. S. Union Co., 341 S.W.3d 821	366+35	Natural gas utility could seek protection under waiver of subrogation clause in contract between construction contractor and owner of hog plant that was partially destroyed in natural gas explosion while it was under construction; utility was included within the identifiable class of persons covered by the waiver of subrogation provision, utility's activities in provision of gas distribution line and necessary metering and regulatory equipment fell within the plain, ordinary, and common sense meaning ascribed contractual phrase "construction or operations related to" the project, provision of a gas service line to the plant was essential to the plant's ultimate operation, and utility could not have transported natural gas to the plant without undertaking these construction activities.	Is a waiver of subrogation provision in a contract a mechanism for reducing litigation by preventing claims?	043339.docx	LEGALEASE-00127941-LEGALEASE-00127942
Agostinelli v. Stein, 17 A.D.3d 982	366+35	Waiver of subrogation clause cannot be enforced beyond scope of specific context in which it appears.	Can a waiver of subrogation be enforced beyond the scope originally intended?	043428.docx	LEGALEASE-00127738-LEGALEASE-00127739
Price v. High Pointe Oil Co., 294 Mich. App. 42	386+7	Liability for a trespass to chattel generally requires some showing of damages.	Does liability for a trespass to chattel generally require some showing of damages?	Trespass - Memo 218 - RK.docx	ROSS-003303945-ROSS-003303946
Batchelder v. Tweedie, 294 A.2d 443	13+65	Substantive rights are fixed at the date on which the cause of action accrues; however, procedural statutes are ordinarily applicable to pending actions.	Are substantive rights fixed at the date on which the cause of action accrues?	005982.docx	LEGALEASE-00128249-LEGALEASE-00128250
Fruehauf Trailer Co. v. City of Detroit, 325 Mich. 407	13+65	A litigant may not sue first and obtain his right of action afterwards.	Can one sue first and obtain his right of action afterwards?	Action - Memo # 731 - C - ES.docx	ROSS-003284866-ROSS-003284867
Orsi v. Bd. of Appeals of Town of Bethlehem, 3 A.D.3d 698	13+65	Generally, court must apply law as it exists at time of decision.	Should a court apply a law as it exists at the time of a decision?	006003.docx	LEGALEASE-00128341-LEGALEASE-00128342
Archer v. Utah State Land Bd., 15 Utah 2d 321	361+1551	Ordinarily, facts and law in given lawsuit are to be applied as of date of filing of original complaint.	"Since equity always speaks as of the date of its decree, are facts about the filing date of the complaint relevant and material to the main issue?"	Action - Memo # 794 - C - KBM.docx	LEGALEASE-00018022-LEGALEASE-00018023
Bate v. Davis, 309 Ky. 709	307A+551	An action cannot be maintained if commenced before accrual of cause which is sought to be enforced, and such an action should be dismissed without prejudice to plaintiff's right to begin a new action on accrual of the cause; and, upon proper and timely objection being made, the nonexistence of a cause of action when suit was started is a fatal defect which cannot be cured by accrual of cause pending suit.	Can an action be maintained if commenced before the accrual of the cause which is sought to be enforced?	Action - Memo # 821 - C - SJ.docx	ROSS-003286357-ROSS-003286358
Dumais v. Am. Golf Corp., 299 F.3d 1216	25T+135	Arbitration agreement that bound employee but gave employer unfettered right to alter agreement or its scope was illusory and unenforceable.	Is an arbitration agreement giving one party the unfettered right to alter the arbitration agreements existence or its scope illusory?	007241.docx	LEGALEASE-00128642-LEGALEASE-00128644
United Steelworkers of Am. v. Crane Co., 456 F. Supp. 385	25T+135	Arbitration can be ordered when contract requiring such remedy has expired and dispute arises under terms of expired contract.	Can courts order arbitration when the contract requiring arbitration has expired?	Alternative Dispute Resolution - Memo 460 - RK.docx	ROSS-003285549-ROSS-003285550

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Int'l Bhd. of Elec. Workers, Local No. 367, AFL-CIO v. Graham Cty. Elec. Coop., 783 F.2d 897	25T+135	Obligation to arbitrate a new contract, i.e., "interest arbitration," may survive the termination of an old contract.	Can interest arbitration survive the termination of a contract?	007248.docx	LEGALEASE-00128649-LEGALEASE-00128650
Gogri v. Jack In The Box Inc., 166 Cal. App. 4th 255	307A+508	Plaintiff's voluntary dismissal was timely filed under statute granting a plaintiff an absolute right to timely voluntary dismissal, and thus trial court lacked discretion to vacate dismissal or grant defendant's motion for summary judgment, even though trial court had sustained demurrers without leave to amend as to some of plaintiff's causes of action, and both parties had moved for summary judgment as to remaining causes of action, where trial court had issued no tentative ruling on summary judgment motions, and plaintiff had submitted admissible evidence in support of its motion; there had been no public and formal indication by court regarding merits of case, and plaintiff had not committed any procedural dereliction that rendered judgment against him inevitable or mere formality. West's Ann.Cal.C.C.P. S 581.	Is a voluntary dismissal available to the plaintiff as a matter of right?	038742.docx	LEGALEASE-00128263-LEGALEASE-00128264
In re Segal, 527 B.R. 85	51+2260	The right to voluntarily dismiss a Chapter 7 case is not absolute; the debtor must establish cause for dismissal. 11 U.S.C.A. S 707(a).	Is the right to a voluntary dismissal not absolute?	038812.docx	LEGALEASE-00128281-LEGALEASE-00128282
City of Milwaukee v. Pub. Serv. Comm'n, 11 Wis. 2d 111	268+57	Existence of municipality supplying water as a public utility does not result in grant of an indeterminate permit to operate as a public utility. W.S.A. 196.01(5).	Does the existence as a public utility result in the grant of an indeterminate permit?	Public Utilities - Memo 235 - AM.docx	ROSS-003286945-ROSS-003286946
US Airways v. Qwest Corp., 238 Ariz. 413	372+840	Telecommunication utility owed common law duty, as an underground facilities operator under Blue Stake Law, to data center operator, which experienced interrupted service resulting from severed cable that was allegedly not properly marked prior to excavation; even though law authorized a civil action for damages in favor of only utilities and excavators, law explicitly imposed duty on utility to carefully mark its underground cable, and law was enacted, in part, to protect end users like operator. A.R.S. SS 40-360.22(B), 40-360.28(B).	Are negligence actions against a utility for service interruption or other economic losses part of the common law?	Public Utilities - Memo 246 - AM.docx	ROSS-003285327-ROSS-003285328
In re Larbar Corp., 177 F.3d 439	366+35	Surety can waive right of equitable subrogation in favor of another creditor.	Can a surety waive the right of equitable subrogation in favor of another creditor?	043315.docx	LEGALEASE-00128114-LEGALEASE-00128115
Hall v. Windsor Sav. Bank, 97 Vt. 125	366+35	The right of subrogation, though it may be lost by waiver or estoppel, is unaffected by the conduct of another.	Is the right of subrogation unaffected by the conduct of another?	Subrogation - Memo # 1117 - C - ES.docx	ROSS-003300443-ROSS-003300444
Stolberg v. Caldwell, 175 Conn. 586	1.41E+13	Furnishing of education for general public is state function and duty.	Is furnishing of education for the general public a state function and duty?	016925.docx	LEGALEASE-00128778-LEGALEASE-00128780
Danson v. Casey, 33 Pa. Cmwlth. 614	1.41E+13	The power of the state over education falls into that class of powers which are fundamental to our government. Act April 1, 1834, P.L. 102.	Does the power of a state over education fall into that class of powers which are fundamental to the government?	Education - Memo # 57 - C - SU.docx	ROSS-003286779-ROSS-003286780
Brown v. Bd. of Ed. of City of Chicago, 386 F. Supp. 110	1.41E+13	Local control over public education should be maintained wherever possible.	Should local control over public education be maintained wherever possible?	016930.docx	LEGALEASE-00128783-LEGALEASE-00128784

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State Auto. and Cas. Underwriters v. Johnson, 766 S.W.2d 113	289+950	Term "winding up" means administration of assets for purpose of terminating partnership business and discharging obligations of partnership to its members.	What is the winding up of partnership?	021978.docx	LEGALEASE-00128900-LEGALEASE-00128901
Wester & Co. v. Nestle, 669 P.2d 1046	289+821	Agreement to discharge withdrawing partner from existing liability may be inferred from course of dealing between creditor having knowledge of dissolution and person or partnership continuing business. C.R.S.1973, 7-60-136(2).	Does the dissolution of a partnership discharge the existing liability of any partners?	Partnership - Memo 222 - RK.docx	ROSS-003300777-ROSS-003300778
In re Western World Funding, 52 B.R. 743	289+429	Partners have an equal legal right to manage, but actual management may be delegated to a single partner or coadventurer without destroying their relationship as coadventurers or partners.	Can the management and control of the partnership be delegated?	022032.docx	LEGALEASE-00128958-LEGALEASE-00128959
Pedro v. Pedro, 463 N.W.2d 285	101+1526(2)	Relationship between shareholders in a closely held corporation is analogous to that of partners, in that each shareholder owes the others a fiduciary duty.	Is the relationship between shareholders in a closely held corporation analogous to that of partners?	Partnership - Memo 244 - RK.docx	ROSS-003300296-ROSS-003300297
In re Christenberry, 336 B.R. 353	101+3501	Under Tennessee law, "sole proprietorship" is a form of business in which one person owns all assets of a business, in contrast to a partnership and corporation, and the sole proprietor is solely liable for all debts of the business.	Is a sole proprietorship different from a partnership?	022052.docx	LEGALEASE-00128978-LEGALEASE-00128979
Roberson v. Rollins, 710 S.W.2d 180	307A+501	Rule governing nonsuits is liberally construed in favor of right to nonsuit. Vernon's Ann.Texas Rules Civ.Proc., Rule 164.	Is a rule governing nonsuits liberally construed in favor of a right to nonsuit?	041237.docx	LEGALEASE-00128789-LEGALEASE-00128790
Demolle v. Louisiana Dep't of Wildlife & Fisheries, 580 So. 2d 1083	360+200	Statute which governs suits against Department of Wildlife and Fisheries is specific statute which supersedes general venue statute for suits brought against State. LSA-R.S. 13:5104, subd. A, 36:602.	Do statutes which govern specific agencies supersede general venue statutes?	Venue - Memo 113 - RK.docx	ROSS-003288546-ROSS-003288548
Greene v. A.G.B.B. Hotels, 505 So. 2d 666	401+5.1	Not every action that concerns real property involves property in litigation for purpose of determining venue. West's F.S.A. S 47.011.	Does every action that concerns real property involve the property in the litigation?	Venue - Memo 117 - RK.docx	ROSS-003288338-ROSS-003288339
Livitsanos v. Superior Court, 2 Cal. 4th 744	413+1	Touchstone of workers' compensation system is industrial injury which results in occupational disability or death. West's Ann.Cal.Labor Code S 3201 et seq.	What is the touchstone of the workers compensation system?	047723.docx	LEGALEASE-00128726-LEGALEASE-00128727
Jordan v. Horstmeyer, 152 A.D.3d 1097	30+125	While no appeal lies from an order issued on consent, that rule does not apply where the order differs from or exceeds the consent.	Can an appeal lie from an order issued on consent?	Appeal and error - Memo 27 - RK.docx	LEGALEASE-00018886-LEGALEASE-00018887
Moran v. Murphy, 230 Mass. 5	30+6	Only way to bring material evidence before full court on appeal in action at law is by exceptions or report.	How can material evidence be brought before the court in an action at law?	Appeal and error - Memo 47 - RK.docx	ROSS-003313478-ROSS-003313479
Beebe v. St. Helens, 124 Or. 638	110+260.4	Writ of review proceedings in recorder's court could not be prosecuted at time appeal to circuit court from conviction was pending.	Can a party prosecute an appeal from a judgment while a writ of review to the same court is pending?	Appeal and error - Memo 53 - RK.docx	ROSS-003287053-ROSS-003287054
Colburn v. Williams, 16 Ariz. 73	30+13	Where defendant on the overruling of a new trial gave notice of appeal and a few days later filed a bond for costs, which was approved, the appeal was perfected and the trial court lost jurisdiction and could not entertain an application for a writ of error.	Can a writ of error be prosecuted when a valid subsisting appeal is pending?	008226.docx	LEGALEASE-00129117-LEGALEASE-00129118
Snohomish Cty. v. State, 69 Wash. App. 655	411+7	As agency created by statute, forest practices appeals board has only those powers expressly granted or necessarily implied from statute. West's RCWA 76.09.210, 76.09.220, 76.09.220(7).	What kind of powers do agency appeal boards have?	Woods and Forest - Memo 38 - RK.docx	ROSS-003290650-ROSS-003290651

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Huntington Alloys v. United Steelworkers of Am., 623 F.2d 335	25T+151	There must be strict adherence to essential terms of agreement to arbitrate.	Must there be strict adherence to the essential terms of an agreement to arbitrate?	007314.docx	LEGALEASE-00129195-LEGALEASE-00129196
Fort v. Fort, 104 So. 2d 69	30+14(0.5)	An improvident petition for a writ of certiorari may not be treated as an appeal. F.S.A. S 59.45.	Is an improvident petition for a writ of certiorari treated as an appeal?	Appeal and error - Memo 58 - RK.docx	ROSS-003313486-ROSS-003313487
Rice v. Steele, 295 S.W.3d 453	30+322	An "indispensable party" is one whose absence prevents the Court of Appeals from granting complete relief among those already parties.	What constitutes an indispensable party?	008275.docx	LEGALEASE-00129585-LEGALEASE-00129586
People v. Kerestes, 38 Ill. App. 3d 681	67+28(1)	Element of intent is an essential part of the crime of burglary which must be properly alleged and proved.	Is intent an essential part of burglary?	Burglary - Memo 63 - RK.docx	ROSS-003300697-ROSS-003300698
Crooks v. Maynard, 112 Idaho 312	79+65	District judge in exercise of supervisory power over clerical activities of district court clerk may set guidelines for hiring deputy clerks that perform judicial functions, control assignment of persons hired by clerk, and refuse assignment of personnel considered unacceptable for judicial function. Act March 3, 1863, 12 Stat. 808; Const. Art. 2, S 1; Art. 5, SS 1 et seq., 16; Art. 18, S 6; I.C. SS 1-1002, 31-3107.	Can a judge set guidelines for hiring deputy clerks?	013367.docx	LEGALEASE-00129686-LEGALEASE-00129687
Sublett v. Dist. Sch. Bd. of Sumter Cty., 617 So. 2d 374	141E+421	School employee had contractual property interest in his job in maintenance department because he could only be terminated for just cause.	Does a teacher or a contractual employee who can only be terminated for cause have a contractual property interest in his job?	016980.docx	LEGALEASE-00129277-LEGALEASE-00129278
State v. Hackley, Hume & Joyce, 124 La. 854	302+8(1)	Ultimate facts of necessity are conclusions from intermediate and evidentiary facts; but legal conclusions cannot be pleaded as ultimate facts.	"Are ultimate facts of necessity, conclusions drawn from intermediate and evidentiary facts?"	Pleading - Memo 214 - RMM.docx	ROSS-003287365-ROSS-003287366
State v. Hackley, Hume & Joyce, 124 La. 854	302+228.19	Exception of no cause of action admits well-pleaded facts, but not conclusions of law.	Does an exception of no cause of action admit well-pleaded facts?	023105.docx	LEGALEASE-00129191-LEGALEASE-00129192
Morley v. Wilson, 261 Mass. 269	302+8(3)	Allegation of arbitrary and capricious conduct states legal conclusion.	Does a general allegation of arbitrary and capricious conduct state a mere legal conclusion?	023112.docx	LEGALEASE-00129237-LEGALEASE-00129238
Ethicon Endo-Surgery v. Gillies, 343 S.W.3d 205	307A+501	The party requesting a non-suit has an absolute right to a non-suit at the moment the motion is filed. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	Does a plaintiff generally have an absolute right to nonsuit at the moment a motion is filed with a clerk?	024439.docx	LEGALEASE-00129533-LEGALEASE-00129534
Greenberg v. Brookshire, 640 S.W.2d 870	307A+501	Rule governing right to take nonsuit is construed liberally in favor of right to nonsuit. Vernon's Ann.Rules Civ.Proc., Rules 164, 164 note.	Should the nonsuit rule be construed liberally in favor of the right to take a nonsuit?	024711.docx	LEGALEASE-00129256-LEGALEASE-00129258
Smith v. Columbian Carbon Co., 145 Tex. 478	307A+501	Rule giving plaintiff right to take a nonsuit should be liberally construed. Rules of Civil Procedure, rule 164.	Should the rule recognizing the right of a plaintiff to take a nonsuit be liberally construed?	Pre-trial Procedure - Memo # 1051 - C - KG.docx	ROSS-003287656-ROSS-003287657
Bedgood v. Stevens, 200 Ga. 244	388+14	A motion to dismiss a pending cause should be construed as a motion to strike the case from the docket.	Can a motion to dismiss construed as a motion to strike a case from a docket?	026237.docx	LEGALEASE-00129216-LEGALEASE-00129217
Wright v. Steers, 179 N.E.2d 721	371+2001	The nature of tax must be determined by its operation and incidence, rather than by its title or designation made by the legislature.	How is the nature of a tax determined?	044786.docx	LEGALEASE-00129537-LEGALEASE-00129538
InterGen N.V. v. Grina, 344 F.3d 134	25T+141	Courts should be extremely cautious about forcing arbitration in situations in which identity of parties who have agreed to arbitrate is unclear.	When should the courts be cautious about forcing arbitration?	007359.docx	LEGALEASE-00130216-LEGALEASE-00130217

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Stein v. Dowling, 867 F. Supp. 2d 1087	92+1186	Members of military are not excluded from protection granted by First Amendment. U.S.C.A. Const.Amend. 1.	Are military members excluded from the protection granted by the First Amendment?	Armed Services - Memo 120 - JS.docx	LEGALEASE-00019594-LEGALEASE-00019595
Allen v. State ex rel. Ernest N. Morial--New Orleans Exhibition Hall Auth., 814 So. 2d 644	234+1	Burglary and grand larceny are two separate crimes, and conviction for one is not dependent upon conviction for the other. West's A.M.C. SS 97-17-33, 97-17-41.	Are burglary and larceny separate crimes?	Burglary - Memo 52 - RK.docx	ROSS-003285817-ROSS-003285818
United States v. Walgreen Co., 846 F.3d 879	170A+636	In addition to satisfying the False Claims Act's requirements, qui tam plaintiffs must meet the heightened pleading standards of the rule stating that, in all averments of fraud or mistake, the plaintiff must state with particularity the circumstances constituting fraud or mistake. 31 U.S.C.A. S 3729; Fed. R. Civ. P. 9(b).	Should circumstances constituting mistake be stated with particularity?	023158.docx	LEGALEASE-00129911-LEGALEASE-00129912
Huth v. Wisconsin Pub. Serv. Corp., 82 Wis. 2d 102	307A+502	At common law and early under the code, the right to discontinue an action was absolute; however, the rule now is that leave to discontinue may be denied in the court's discretion, if the rights of the opposing party will be substantially prejudiced by discontinuance.	Is the right to discontinue an action absolute under common law?	026140.docx	LEGALEASE-00129905-LEGALEASE-00129906
Griffin v. Miles, 553 S.W.2d 933	307A+501	Right of plaintiff to take voluntary nonsuit is absolute and cannot be denied; however, this right is not without limitation, e. g., where right of adverse party to be heard on his claim for affirmative relief is prejudiced. Rules of Civil Procedure, rule 164.	Is the right of a plaintiff to take a voluntary nonsuit absolute and cannot be denied?	026142.docx	LEGALEASE-00129925-LEGALEASE-00129926
Lanco v. Dir., Div. of Taxation, 21 N.J. Tax 200	371+2001	Regulations interpreting the terms of a tax statute do not by their own force impose taxes.	"Do regulations interpreting the terms of a tax statute by their own force, impose taxes?"	044784.docx	LEGALEASE-00130162-LEGALEASE-00130163
Camping Const. Co. v. Dist. Council of Iron Workers, 915 F.2d 1333	231H+1549(9)	Dispute over termination of prehire collective bargaining agreement was arbitrable under agreement to arbitrate any differences that may arise regarding meaning and enforcement of agreement.	Will broad arbitration clauses cause a court to hold that the parties have provided for arbitration of disputes regarding termination?	007397.docx	LEGALEASE-00131358-LEGALEASE-00131359
Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, 473 U.S. 614	25T+143	Potential complexity of antitrust matters does not suffice to ward off arbitration nor does arbitration panel pose too great a danger of innate hostility to constraints on business conduct that antitrust law imposes. 9 U.S.C.A. S 1 et seq.	Can potential complexities of antitrust matters suffice to ward off arbitration?	007432.docx	LEGALEASE-00131393-LEGALEASE-00131395
State v. Handy, 156 So. 3d 785	67+2	To establish the crime of simple burglary, it is not required that an actual theft or a taking occur. LSA-R.S. 14:62.	Does simple burglary require theft or taking?	012888.docx	LEGALEASE-00131292-LEGALEASE-00131293
Hood v. State, 860 S.W.2d 931	67+42(1)	When there is independent evidence of burglary, unexplained possession of recently stolen property can constitute sufficient evidence of guilt to support conviction.	Is possession of goods evidence of burglary?	013144.docx	LEGALEASE-00131315-LEGALEASE-00131316
Armintrout v. People, 864 P.2d 576	67+9(0.5)	Word "or" in statute providing that person commits second-degree burglary if he knowingly breaks entrance into, "or" enters, "or" remains unlawfully in building or occupied structure, should be construed in the disjunctive to refer to alternative ways of committing same crime. West's C.R.S.A. S 18-4-203(1).	What is burglary in the second degree?	013188.docx	LEGALEASE-00131327-LEGALEASE-00131328
State v. Bell, 145 Ohio Misc.2d 55	67+8	Common-law burglary is an offense against the habitation carried out when the occupants are expected to be asleep and therefore not alert to prevent invasion of their dwelling.	What is common law burglary?	013199.docx	LEGALEASE-00131339-LEGALEASE-00131340

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State v. Gatewood, 169 Kan. 679	67+9(1)	Pushing open closed door of dwelling house constitutes actual breaking into it, and opening of closed outer door thereof with felonious intent is sufficient to constitute "burglarious breaking." G.S.1935, 21-513.	What constitutes burglarious breaking?	013292.docx	LEGALEASE-00131435-LEGALEASE-00131436
Bates v. State, 582 S.W.2d 84	210+827	Larceny and attempt to commit larceny are not essential elements of burglary and, hence, are not lesser included offenses of that crime.	Is larceny an element of burglary?	Burglary - Memo 88 - JK.docx	ROSS-003326302-ROSS-003326303
People v. Givens, 164 Misc. 2d 463	67+41(9)	Intent to use burglar's tool unlawfully may be established by circumstantial evidence. McKinney's Penal Law S 140.35.	Can intent be proved by circumstantial evidence for the charge of possession of burglars tools?	Burglary - Memo 89 - JK.docx	ROSS-003327750-ROSS-003327751
McReynolds v. Hartley, 251 Ill. App. 3d 1038	79+6	Deputy clerk as no independent authority as deputy and may only perform duties under direction of clerk of circuit court.	Does a deputy clerk have independent authority?	013535.docx	LEGALEASE-00131270-LEGALEASE-00131271
Estep v. Commissioners of Boundary Cty., 122 Idaho 345	79+6	Constitutional provision that clerk of district court shall be empowered by county commissioners to appoint deputies and clerical assistants who shall receive compensation fixed by commissioners does not authorize commissioners to order hiring policies to govern clerk, but authorizes clerk to hire deputy clerks. Const. Art. 18, S 6.	Is a clerk of the district court governed by the county commissioners' order?	013539.docx	LEGALEASE-00131276-LEGALEASE-00131277
Blankenship v. Kootenai Cty., 125 Idaho 101	79+66	Clerk of court is judicial officer while performing judicial clerical duties for court. I.C. S 1-907.	Is a clerk of the district court a judicial officer while performing judicial clerical duties for the court?	013540.docx	LEGALEASE-00131278-LEGALEASE-00131279
Bradley v. Graham, 250 Miss. 244	307A+501	Complainant has right to take without prejudice a voluntary dismissal. Code 1942, S 1538.	Does a complainant have a right to take without prejudice a voluntary dismissal?	026093.docx	LEGALEASE-00131085-LEGALEASE-00131086
English v. Atlanta Transit Sys., 134 Ga. App. 621	307A+501	Plaintiff is entitled to voluntary dismissal as matter of right when he substantially complies with statutory conditions. Code, S 81A-141(a).	is a plaintiff entitled to a voluntary dismissal as a matter of right when he substantially complies with statutory conditions?	Pretrial Procedure - Memo # 1233 - C - UG.docx	LEGALEASE-00020440-LEGALEASE-00020441
Progressive Ins. Companies v. Hartman, 788 S.W.2d 424	307A+501	Defendant cannot force plaintiff to prosecute suit against plaintiff's own best interests.	Can a defendant force a plaintiff to prosecute a suit against a plaintiff's own best interests?	Pretrial Procedure - Memo # 1266 - C - PC.docx	ROSS-003300967-ROSS-003300968
Crystal Lake Golf Course v. Kalin, 252 So. 2d 379	307A+746	Failure of defendant's counsel to attend pretrial conference, while possibly subjecting him to judicial sanctions, should not serve as a predicate upon which to punish defendant where record was devoid of any evidence reflecting a persistent refusal to attend or a wilful disregard of an order of the court, and where record was also devoid of any response by plaintiff to or refutation of defendant's sworn motion and affidavit in support of his motion to vacate. 30 & 31 F.S.A. Rules of Civil Procedure, rules 1.200, 1.540(b).	What is a pretrial conference designed to do?	Pretrial Procedure - Memo # 1469 - C - SK.docx	ROSS-003314729-ROSS-003314730
Maudsley v. Pederson, 676 N.W.2d 8	307A+747.1	Whether or not to enforce its own scheduling order is clearly within the district court's discretion.	Does the court have discretion in enforcing its own scheduling order?	026635.docx	LEGALEASE-00130289-LEGALEASE-00130290
Wilson Foods Corp. v. Turner, 218 Ga. App. 74	307A+747.1	Pretrial order is ineffective for any purpose until it is signed by trial judge.	Is a pretrial order ineffective for any purpose until it is signed by a trial judge?	Pretrial Procedure - Memo # 1601 - C - PC.docx	ROSS-003314789-ROSS-003314790
Ekberg, v. Sharp, 2003 WY 123	307A+742.1	The objectives of the civil procedure rule allowing the district court to set pretrial deadlines are to allow the district court to expedite the disposition of actions, establish early and continuing control over actions, and facilitate settlement of the case. Rules Civ.Proc., Rule 16.	What are the objectives of the civil procedure rule in setting pre-trial deadlines?	026753.docx	LEGALEASE-00130285-LEGALEASE-00130286

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In re Carton, 48 N.J. 9	307A+747.1	A trial court should not order counsel to sign a pretrial order counsel questions. R.R. 4:29-1(b).	Should a trial court order a counsel to sign a pretrial order counsel questions?	026761.docx	LEGALEASE-00130303-LEGALEASE-00130304
Sobolewski v. State, 889 N.E.2d 849	110+629(1)	Nondisclosure of a rebuttal witness is excused when that witness was unknown and unanticipated; in this context, a "known" witness refers to knowledge of the existence of the witness, and an "anticipated" witness is one which a party or her counsel anticipates the need for at trial.	"Does ""known witness"" refer to knowledge of the existence of that witness?"	Pretrial Procedure - Memo # 1700 - C - DA.docx	ROSS-003300645-ROSS-003300646
Unruh v. Purina Mills, 289 Kan. 1185	307A+749.1	The pretrial order supersedes any pleadings and has the effect of amending the pleadings to conform to it. West's K.S.A. 60-216(e).	Does the pretrial order supersede any pleadings and have the effect of amending the pleadings to conform to it?	026843.docx	LEGALEASE-00130806-LEGALEASE-00130807
Misle Chevrolet Co. v. Kometscher, 225 Neb. 804	30+199	Failure to object to specification of issues in pretrial orders waives error claimed in that regard on appeal.	Do issues set out in a pretrial order supplant the issues raised in the pleadings?	Pretrial Procedure - Memo # 1807 - C - SN.docx	ROSS-003287263-ROSS-003287264
Estate of Cooper, 11 Cal. App. 3d 1114	307A+743	The pretrial order determines issues to be tried; issues that are not designated as being in dispute are no longer issues in the case.	Do pretrial orders determine the issues to be tried?	Pretrial Procedure - Memo # 1812 - C - SB.docx	ROSS-003287988-ROSS-003287989
Clark v. Randalls Food, 317 S.W.3d 351	307A+331	For purposes of determining whether there exists a duty to preserve evidence, a party can anticipate litigation before it receives actual notice of potential litigation.	Can a party anticipate litigation before it receives actual notice of potential litigation?	Pretrial Procedure - Memo # 2158 - C - PC.docx	ROSS-003313411-ROSS-003313412
Endsley v. City of Chicago, 319 Ill. App. 3d 1009	371+2001	"Taxes" are an enforced proportional contribution levied by the State, by virtue of its sovereignty, for support of the government.	"By virtue of what, are taxes levied by the State?"	Taxation - Memo # 125 - C - CK.docx	ROSS-003301682-ROSS-003301685
Town of Hilton Head Island v. Morris, 324 S.C. 30	371+2001	Statute levies tax when it fixes amount or rate to be imposed.	Does a statute levy tax when it fixes amount or rate to be imposed?	044714.docx	LEGALEASE-00130831-LEGALEASE-00130832
Alabama Power Co. v. Fed. Power Comm'n, 134 F.2d 602	405+2617	In proceeding by Federal Power Commission to determine power company's actual legitimate cost of construction of dam for development of water power, taxes are allowable as a cost only from date that property included in project is definitely committed to it and cannot be otherwise used. Federal Power Act S 4(b) as amended 16 U.S.C.A. S 797(b).	To whom is the tax paid to?	Taxation - Memo # 31 - C - KBM.docx	LEGALEASE-00021198-LEGALEASE-00021199
Alabama Power Co. v. Fed. Power Comm'n, 134 F.2d 602	371+2001	"Taxes" are annual compensation paid to government for annual protection and for current support of government and are generally an "expense" and not an "investment".	Is a tax paid to the government?	Taxation - Memo # 32 - C - KBM.docx	LEGALEASE-00021200-LEGALEASE-00021201
Mississippi Power Co. v. Mississippi Pub. Serv. Comm'n, 168 So. 3d 905	371+2001	A tax is paid to the government, not a privately-owned corporate entity which is not an arm of the State.	Is a tax paid to a privately-owned corporate entity which is not an arm of the State?	Taxation - Memo # 33 - C - KBM.docx	ROSS-003288306-ROSS-003288307
Dean v. Lehman, 143 Wash. 2d 12	371+2002	In ascertaining whether a governmentally imposed charge is a fee or a tax, the court applies a three factor test, the first factor of which inquires whether the primary purpose of the state is to accomplish desired public benefits which cost money, or whether the primary purpose is to regulate; if the primary purpose of the charges is to raise revenue the charges are a tax, but if the primary purpose is regulatory, the charges are properly characterized as "tools of regulation" rather than taxes.	Is tax an imposed charge?	045055.docx	LEGALEASE-00130561-LEGALEASE-00130563

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Maryland Theatrical Corp. v. Brennan, 180 Md. 377	238+1	Generally, when it appears from act itself that revenue is its main objective and amount of tax imposed thereby supports such theory, the act is a "revenue measure", not a "regulatory measure".	"When is an enactment a ""revenue measure""?"	046091.docx	LEGALEASE-00130716- LEGALEASE-00130718
Empress Casino Joliet Corp. v. Blagojevich, 674 F. Supp. 2d 993	371+2001	An assessment is a tax if it is for revenue raising purposes, regardless of whether the proceeds go to a general fund or are devoted to a more specialized purpose.	When is an assessment a tax?	046099.docx	LEGALEASE-00130726- LEGALEASE-00130728
Singleton v. Haywood Elec. Membership Corp., 357 N.C. 623	386+1	A claim of trespass requires: (1) possession of the property by plaintiff when the alleged trespass was committed, (2) an unauthorized entry by defendant, and (3) damage to plaintiff.	What are the requisites for a claim of trespass?	047389.docx	LEGALEASE-00131346- LEGALEASE-00131347
In re Am. Exp. Fin. Advisors Sec. Litig., 672 F.3d 113	89+414	Investors' claims against financial services company and financial consultant for breach of fiduciary duty, breach of contract, fraud, and negligent misrepresentation included claims falling outside settlement agreement and release in prior class action binding investors, which contained carve-out for suitability claims outside common course of conduct that was alleged or could have been alleged in class action, and therefore such claims were subject to parties' agreement to arbitrate, where investors alleged that defendants failed to invest their funds in conservative fashion as agreed, that alleged mismanagement did not fall within class action's common course of conduct of steering investors into certain managed programs, investors also alleged cover-up conduct outside scope of release, and investors asserted claims involving conduct that occurred after class period ended.	Can claims which have been released through a settlement agreement be subject to arbitration?	007464.docx	LEGALEASE-00132383- LEGALEASE-00132384
Reid v. Doe Run Res. Corp., 701 F.3d 840	25T+179	A nonsignatory attempting to bind a signatory to an arbitration agreement is distinct from a signatory attempting to bind a nonsignatory.	Is a nonsignatory attempting to bind a signatory to an arbitration agreement distinct from a signatory attempting to bind a nonsignatory?	007470.docx	LEGALEASE-00132389- LEGALEASE-00132390
Bond v. United States, 47 Fed. Cl. 641	34+3(1)	Although the deference accorded to military actions by the judiciary is substantial, it is not unlimited.	Is the deference accorded to military actions by the judiciary unlimited?	008943.docx	LEGALEASE-00132467- LEGALEASE-00132468
Welder v. Green, 985 S.W.2d 170	289+806	Partner can be expelled from partnership, without any breach of duty, over disagreements about firm policy or to resolve some other fundamental schism; the fiduciary duty partners owe one another does not encompass a duty to remain partners.	Can a partner be expelled from the partnership?	022193.docx	LEGALEASE-00132495- LEGALEASE-00132496
Welder v. Green, 985 S.W.2d 170	289+566	Managing partners owe their partners the highest fiduciary duty recognized in the law.	Do the managing partners owe their partners the highest fiduciary duty?	022201.docx	LEGALEASE-00132481- LEGALEASE-00132482
Juengain v. Tervalon, 223 So. 3d 1174	307A+517.1	A dismissal without prejudice is considered as if the suit has never been filed.	Is a dismissal without prejudice considered as if the suit has never been filed?	027554.docx	LEGALEASE-00131775- LEGALEASE-00131776
Washburn v. Terminal R. R. Ass'n of St. Louis, 114 Ill. App. 2d 95	307A+15	Purpose of discovery is ascertainment of truth and expedition of disposition of litigation.	Is the purpose of discovery ascertainment of truth and expedition of a disposition of litigation?	Pretrial Procedure - Memo # 2211 - C - KA.docx	ROSS-003288143-ROSS- 003288144
Washburn v. Terminal R. R. Ass'n of St. Louis, 114 Ill. App. 2d 95	307A+15	Purpose of discovery is ascertainment of truth and expedition of disposition of litigation.	Is the purpose of discovery ascertainment of truth and expedition of a disposition of litigation?	027568.docx	LEGALEASE-00131520- LEGALEASE-00131521

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Wachovia SBA Lending v. Kraft, 165 Wash. 2d 481	266+2131(2)	Debtor's wife, against whom creditor had brought deficiency action following foreclosure of promissory note secured by deed of trust on debtor's and wife's home, was not "prevailing party" on basis of grant of creditor's motion for dismissal of action without prejudice, under statute providing for prevailing party attorney fees in action on contract or lease which contains unilateral attorney fee provision, as creditor's voluntary dismissal without prejudice was not a "final judgment" rendered in wife's favor; abrogating, Marassi v. Lau, 71 Wash.App. 912, 859 P.2d 605, Allahyari v. Carter Subaru, 78 Wash.App. 518, 897 P.2d 413. West's RCWA 4.84.330.	Is a voluntary dismissal a final judgment when it leaves the parties as if the action had never been brought?	Pretrial Procedure - Memo # 2336 - C - KG.docx	ROSS-003286582-ROSS-003286583
Wachovia SBA Lending v. Kraft, 165 Wash. 2d 481	307A+517.1	A voluntary dismissal leaves the parties as if the action had never been brought.	Does a voluntary dismissal leave the parties as if the action had never been brought?	Pretrial Procedure - Memo # 2380 - C - TM.docx	LEGALEASE-00021961-LEGALEASE-00021962
Price v. Wyeth Holdings Corp., 505 F.3d 624	307A+517.1	Under Indiana law, once a suit is voluntarily dismissed, the situation is just as though the suit has never been filed.	"Once a suit is voluntarily dismissed, is the situation just as though the suit has never been filed?"	Pretrial Procedure - Memo # 2469 - C - MS.docx	ROSS-003287537-ROSS-003287538
Rivers v. State, 327 S.C. 271	371+2001	Taxpayers have no vested interest in tax laws remaining unchanged.	Do taxpayers have vested interest in tax laws remaining unchanged?	Taxation - Memo # 129 - C - CK.docx	ROSS-003301169-ROSS-003301170
Weisblat v. City of San Diego, 176 Cal. App. 4th 1022	371+2001	A tax is a "general tax" only when its revenues are placed into the general fund and are available for expenditure for any and all governmental purposes.	"Is a tax considered as a general tax"" when its revenues are placed into the general fund?"	044642.docx	LEGALEASE-00131480-LEGALEASE-00131481
Arbuckle-Coll. City Fire Prot. Dist. v. Cty. of Colusa, 105 Cal. App. 4th 1155	371+2001	Taxes that provide revenues that are available for all purposes of the governmental entity are "general taxes" and include ad valorem property taxes; whereas, taxes that provide revenue for a specific or limited purpose are "special taxes."	"Is a tax considered as a general tax"" when its revenues are placed into the general fund?"	Taxation - Memo # 131 - C - KBM.docx	LEGALEASE-00022057-LEGALEASE-00022058
Sanford v. Walther., 467 S.W.3d 139	371+2763	Taxes and interest on tax delinquencies are not the same, for purposes of reviewing illegal exaction claims, in that taxes are enforced contributions exacted pursuant to statutory authority, whereas interest is a charge for the use of tax money that the government was deprived of using due to late payment.	"Are taxes, enforced contributions exacted pursuant to statutory authority?"	Taxation - Memo # 152 - C - NA.docx	ROSS-003288424-ROSS-003288425
City of Lebanon Junction v. Cellco P'ship, 80 S.W.3d 761	371+2001	The character of any tax is to be determined by its incidents, and the name by which it is described in the legislation imposing it is without significance.	Is the character of a tax determined by its incidents?	Taxation - Memo # 206 - C - KI.docx	ROSS-003304043-ROSS-003304044
City of Lebanon Junction v. Cellco P'ship, 80 S.W.3d 761	371+2001	The character of any tax is to be determined by its incidents, and the name by which it is described in the legislation imposing it is without significance.	Is the character of a tax determined by its name?	Taxation - Memo # 207 - C - KI.docx	ROSS-003286820-ROSS-003286821
Bemis Bro. Bag Co. v. Wallace, 197 Minn. 216	371+2001	"Taxation" is a burden or charge imposed by legislative power upon persons or property to raise money for public purposes.	"What is ""taxation""?"	044848.docx	LEGALEASE-00131638-LEGALEASE-00131639
Pub. Advocate & Consumers Educ. & Protective Ass'n v. City of Philadelphia, 662 A.2d 686	371+2001	Necessary predicate to finding of unlawful tax is direct taking of customer funds.	What is the necessary predicate to finding of unlawful tax?	Taxation - Memo # 262 - C - SU.docx	ROSS-003301938-ROSS-003301939

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Mayor & City Council of Ocean City v. Purnell-Jarvis, Ltd., 86 Md. App. 390	371+2001	Act is "revenue raising" measure when it appears from act itself that revenue is its main objective.	"Is an Act a ""revenue raising"" measure when it appears from act itself that revenue is its main objective?"	044926.docx	LEGALEASE-00131957-LEGALEASE-00131958
German v. Com., 410 Mass. 445	371+2001	"Tax" is revenue-raising exaction imposed through generally applicable rates to defray public expense; nature of monetary exaction will be decided by studying its operation rather than how it has been characterized by legislature.	"Does the Supreme Judicial Court look to proposed operation of the exaction, to determine whether a monetary exaction to be imposed is a tax?"	Taxation - Memo # 292 - C - KBM.docx	LEGALEASE-00022233-LEGALEASE-00022234
Faber v. Loveless, 249 Iowa 593	371+2001	While the name given a tax by the legislature is not determinative, such legislative designation is an important factor in determining the character of the tax.	Is the legislative designation of a particular tax determinative as to its nature?	044950.docx	LEGALEASE-00132037-LEGALEASE-00132038
United States v. Peskin, 527 F.2d 71	63+1(1)	Although language and scope of Travel Act are not limited to original congressional purpose of combatting organized crime, Congress did not intend broad ranging interpretation of Act. 18 U.S.C.A. S 1952.	Is the Travel Act enacted to combat organized crime?	Bribery - Memo #225 - C-CSS.docx	ROSS-003287382-ROSS-003287383
State v. Ferro, 128 N.J. Super. 353	63+1(1)	Phrase "any person" as used in statute providing that any person who offers to or gives or receives any money or thing of value as bribe or reward in connection with government work, service, etc., does not mean a government official, even in context of being the recipient of a bribe; the bribe must be directed towards official action and the offender, as recipient of the bribe, must only have or create an understanding with the briber that he can influence matters in connection with an official duty; whether he is capable of actually effecting such an act is irrelevant. N.J.S.A. 2A:93-6.	"Does the phrase ""any person"" within the bribery statute mean any government official?"	011379.docx	LEGALEASE-00133308-LEGALEASE-00133309
Roberson v. Medtronic, 494 F. Supp. 2d 864	13+5	Federal Anti-Kickback Act provides only criminal penalties for its violation and provides no private right of action. Social Security Act, S 1128B, 42 U.S.C.A. S 1320a-7b.	Does the Anti-Kickback Act provide a private cause of action?	011434.docx	LEGALEASE-00133389-LEGALEASE-00133390
In re Wedtech Corp., 72 B.R. 464	226H+3	"Joint venture" is informal partnership among two or more persons for limited goal or objective; characteristics and legal consequences of joint venture are virtually identical with those of partnership.	Are joint ventures formed for a limited objective?	022059.docx	LEGALEASE-00133495-LEGALEASE-00133496
Wanetick v. Mel's of Modesto, 811 F.Supp. 1402	46H+621	Under California law, attorneys for limited partnership owed no fiduciary duties to limited partner and no duty to volunteer advice for benefit of limited partner.	Does the duty of loyalty owed by an attorney to a limited partnership extend to the individual partners?	022116.docx	LEGALEASE-00133523-LEGALEASE-00133524
In re Nantucket Island Associates Ltd. Partnership Unitholders Litigation, 810 A.2d 351	289+1099	Provision in limited partnership agreement exempting general partner from obtaining limited partners' written consent to amendments admitting additional limited partners did not evidence any authority on the part of general partner to unilaterally amend limited partnership agreement to add a new class of preferred limited partnership units having superior rights to existing units; provision was in section of agreement that would have otherwise required general partner to obtain written unanimous consent from all the limited partners, and provision only allowed general partner to admit new limited partners upon consent of a majority of the limited partners and include as consenting those partners who did not affirmatively object.	Can a partnership agreement be amended with the consent of the partners?	Partnership - Memo 280 - RK.docx	ROSS-003305083-ROSS-003305084

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In re Nantucket Island Associates Ltd. Partnership Unitholders Litigation, 810 A.2d 351	289+1099	Provision in limited partnership agreement exempting general partner from obtaining limited partners' written consent to amendments admitting additional limited partners did not evidence any authority on the part of general partner to unilaterally amend limited partnership agreement to add a new class of preferred limited partnership units having superior rights to existing units; provision was in section of agreement that would have otherwise required general partner to obtain written unanimous consent from all the limited partners, and provision only allowed general partner to admit new limited partners upon consent of a majority of the limited partners and include as consenting those partners who did not affirmatively object.	Can a partnership agreement be amended with the consent of the partners?	Partnership - Memo 280 - RK.docx	LEGALEASE-00022559-LEGALEASE-00022560
In re Nantucket Island Associates Ltd. Partnership Unitholders Litigation, 810 A.2d 351	289+1099	When a limited partnership agreement is ambiguous, the interpretative principle of construction against the drafter tends to be implicated.	How will an ambiguous limited partnership agreement be construed?	022124.docx	LEGALEASE-00133529-LEGALEASE-00133530
Carroll v. Caldwell, 12 Ill. 2d 487	302+8(15)	Statements by way of general conclusions of fraud are not sufficient in a pleading.	Are statements by way of general conclusions of fraud sufficient in a pleading?	023247.docx	LEGALEASE-00133042-LEGALEASE-00133043
Hamilton v. City of Shreveport, 180 So. 2d 30	302+8(17)	General allegation of negligence is merely pleader's conclusion of law.	Is a general allegation of negligence merely the pleaders own conclusion of law?	023257.docx	LEGALEASE-00133320-LEGALEASE-00133321
Makuakane v. Tanigawa, 50 Haw. 493	307A+747.1	After a pre-trial conference, a trial judge should not commence with the trial until a pre-trial order has been signed.	"After a pre-trial conference, should a trial judge commence with the trial until a pre-trial order has been signed?"	Pretrial Procedure - Memo # 1865 - C - VA.docx	ROSS-003286391-ROSS-003286393
Hoyt Properties v. Prod. Res. Grp., 716 N.W.2d 366	307A+517.1	A district court has discretion to determine whether a voluntary dismissal should be with prejudice. 48 M.S.A., Rules Civ.Proc., Rule 41.01(a).	Does a district court have discretion to determine whether a voluntary dismissal should be with prejudice?	Pretrial Procedure - Memo # 2543 - C - PB.docx	ROSS-003286662-ROSS-003286663
Wells Fargo Bank, Nat. Ass'n v. Voorhees, 194 So.3d 448	307A+483	The use of admissions obtained through a technicality should not form a basis to preclude adjudication of a legitimate claim. West's F.S.A. RCP Rule 1.370(b).	Should the liberal standard for relief from a technical admission be decided upon their merits rather than technical rules of default?	028569.docx	LEGALEASE-00132700-LEGALEASE-00132701
Hilliard v. Bennett, 925 S.W.2d 338	307A+517.1	Trial court lacked discretion after nonsuit to sua sponte impose sanctions on attorneys who filed action; no claim for affirmative relief or for sanctions had been filed at time attorneys filed their notice of nonsuit, nor had trial court before that time announced its intentions sua sponte to consider or impose sanctions.	Does trial court lack discretion after nonsuit to impose sanctions?	028597.docx	LEGALEASE-00132796-LEGALEASE-00132797
Young v. City of Visalia, 687 F. Supp. 2d 1155	97C+115	Police officers' using of owners' seized property for their own use was not an element of conversion under California law or trespass to chattels.	Can the use of seized property by officers be classified as conversion or trespass to chattels?	047334.docx	LEGALEASE-00133414-LEGALEASE-00133415
Jaynes v. Com., 276 Va. 443	386+1	"Trespass" is the unauthorized use of or entry onto another's property.	Is the unauthorized use of or entry onto another's property a trespass?	Trespass - Memo 247 - RK.docx	LEGALEASE-00023281-LEGALEASE-00023282
Smith v. Colorado Interstate Gas Co., 794 F. Supp. 1035	413+2084	Employee's claim against employer for intentional infliction of emotional distress, arising out of disciplinary measures imposed on her for conducting personal business at work, was barred by exclusive remedy provision of Colorado Worker's Compensation Act. West's C.R.S.A. S 8-40-101 et seq.; C.R.S. 8-52-102(2).	Is compensation under the Worker's Compensation Act intended to be an employee's exclusive remedy against an employer for job-related injuries?	Workers Compensation - Memo #105 ANC.docx	LEGALEASE-00023285-LEGALEASE-00023286

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Perron v. ITT Wire & Cable Div., 103 R.I. 336	413+1	The Workmen's Compensation Act is social legislation remedial in nature.	"Is the Workmens Compensation Act a social legislation, remedial in nature?"	047847.docx	LEGALEASE-00132877-LEGALEASE-00132879
Wait v. Travelers Indem. Co. of Illinois, 240 S.W.3d 220	413+52	Workers' Compensation Act should be liberally construed in favor of compensation, and any doubts should be resolved in the employee's favor; however, this liberal-construction requirement does not authorize courts to amend, alter, or extend its provisions beyond its obvious meaning. West's T.C.A. S 50-6-101 et seq.	Is Workmens compensation law a social welfare statute?	047881.docx	LEGALEASE-00132970-LEGALEASE-00132971
Gray v. Williams, 91 Vt. 111	25+10	Generally if a memorandum written on an instrument in the margin is made before or at the time of its execution, it is considered a part of it, and, if it affects the operation of the instrument, it is a material part of it.	Are the memoranda at the side of the note a part of it?	010224.docx	LEGALEASE-00133622-LEGALEASE-00133623
Brye v. Brakebush, 32 F.3d 1179	228+828.7	Under Wisconsin law of res judicata, state court's dismissal of former employee's petition for review of administrative decision rejecting state discrimination claim did not bar federal court from hearing employee's Title VII claims; although dismissal was with prejudice and thus tantamount to judgment on the merits with respect to further proceedings in regard to state charges, dismissal was without prejudice to any right employee might have to pursue claims in federal or state court under Title VII. Civil Rights Act of 1964, S 701 et seq., as amended, 42 U.S.C.A. S 2000e et seq.	Is dismissal with prejudice tantamount to a judgment on the merits?	Pretrial Procedure - Memo # 2631 - C - KG.docx	ROSS-003290281-ROSS-003290282
Kelly v. Cent. Bank & Tr. Co. of Denver, 794 P.2d 1037	83E+452	Negotiation of order paper requires authorized endorsement of named payee. C.R.S. 4-3-202.	Does a negotiation of an order paper require the authorized indorsement of the named payee?	010935.docx	LEGALEASE-00133772-LEGALEASE-00133773
In re Caddo Par.-Villas S., Ltd., 250 F.3d 300	83E+481	Under Louisiana law, right to enforce negotiable instrument is not strictly personal obligation, and thus may be assigned. LSA-C.C. arts. 1766, 2642.	Can the right to enforce a negotiable instrument be assigned?	010943.docx	LEGALEASE-00133780-LEGALEASE-00133781
Roberson v. Medtronic, 494 F. Supp. 2d 864	13+5	Federal Anti-Kickback Act provides only criminal penalties for its violation and provides no private right of action. Social Security Act, S 1128B, 42 U.S.C.A. S 1320a-7b.	Does the Anti-Kickback Statute provide for a private right of action?	011200.docx	LEGALEASE-00133848-LEGALEASE-00133849
City of Houston v. Riner, 896 S.W.2d 317	307A+486	Mere fact that trial on merits will be necessary is not such "prejudice" as will warrant denying request to withdraw deemed admissions. Vernon's Ann.Texas Rules Civ.Proc., Rule 169, subd. 2.	Does the mere fact that a trial on the merits where the plaintiff knew that the defendant disputed almost every issue in the lawsuit constitute undue prejudice?	028858.docx	LEGALEASE-00133920-LEGALEASE-00133921
Pantano v. State, 124 Nev. 1498	211+1594	Complaint charging defendant with sexual assault of a child under 14 that did not specify the exact date and time of offense was not defective, as time and date were not essential elements of a sexual offense against a minor.	Are time and date essential elements of a sexual offense against a minor?	Sex Offence - Memo 61 - SB.docx	LEGALEASE-00023712-LEGALEASE-00023713
State v. Ray, 122 W. Va. 39	211+1658	An indictment for statutory rape was demurrable where it failed to allege that the defendant was over 16 years of age. Code 1931, 61-2-15, 62-9-7.	Does an indictment of statutory rape require to state the defendants age?	Sex Offence - Memo 65 - SB.docx	LEGALEASE-00023720-LEGALEASE-00023721
People v. Hornaday, 400 Ill. 361	352H+155	Indictment for forcible rape need not aver that the female was not the wife of accused.	Does an indictment for forcible rape require that the female not be the wife of the accused?	043055.docx	LEGALEASE-00133832-LEGALEASE-00133833

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Foley, 740 F.3d 1079	110+368.37	Although defendant was not charged with sexual assault, his charged crimes of child pornography production, distribution, and possession, as well as transporting a minor across state lines to engage in a sex act, involved sexual acts by adults with minors between 12 and 16 years old, which fell within definition of sexual assault under rule allowing admission, in a case in which defendant was accused of sexual assault, of evidence that defendant committed any other assault, and thus witness's testimony that several years earlier, when he was between 11 and 13 years old, he had been sexually molested by defendant in a gym locker room was admissible; focus of the rule was on the conduct itself rather than how the charges were drafted. 18 U.S.C.A. SS 2251(a), 2423(a), 2252A; Fed.Rules Evid.Rule 413, 28 U.S.C.A.	Is the production of child pornography a crime?	043119.docx	LEGALEASE-00133810-LEGALEASE-00133811
House v. United States, 99 Fed. Cl. 342	34+5(6)	Where a member of the military resigns or retires, his decision is presumed to be voluntary, for purposes of invoking Military Pay Act. 37 U.S.C.A. S 204.	Is a decision of a member of the military to resign or retire presumed to be voluntary?	Armed Services - Memo 138 - JS.docx	ROSS-003303762-ROSS-003303764
Kim v. United States, 47 Fed. Cl. 493	34+5(3)	A choice between two unpleasant alternatives does not make the decision to retire from the military involuntary.	Does a choice between two unpleasant alternatives yield a voluntary decision to retire?	008466.docx	LEGALEASE-00134183-LEGALEASE-00134184
Thomas v. United States, 42 Fed. Cl. 449	34+18.5	Court of Federal Claims does not have the authority to order the re-enlistment of a serviceman beyond the date on which his term of enlistment would have expired.	Does a court have authority to order reinstatement?	Armed Services - Memo 148 - JS.docx	ROSS-003289976-ROSS-003289977
United States v. Mariano, 983 F.2d 1150	350H+653(4)	Essential difference between bribe and illegal gratuity is intention of bribe-giver to effect quid pro quo and, thus, bribery sentencing guideline applies when transfer of money has corrupt purpose, such as inducing public official to participate in fraud or to influence official actions. U.S.S.G. SS 2C1.1, 2C1.1, comment. (backg'd.), 18 U.S.C.A.App.	What is the distinction between a bribe and an illegal gratuity?	011469.docx	LEGALEASE-00134830-LEGALEASE-00134832
Kirby v. Gaub, 75 S.W.3d 916	307A+517.1	Voluntary dismissal of civil action is effective on date it is filed with court. V.A.M.R. 67.02.	Is a voluntary dismissal of civil action is effective on date it filed with court?	028431.docx	LEGALEASE-00134027-LEGALEASE-00134028
State ex rel. McCulloch v. Taylor, 268 Mo. 312	307A+69.1	Rev.St.1909, SS 1944-1949, V.A.M.S. SS 510.030 to 510.060, does not authorize requirement that witness produce books and papers on giving deposition.	Does any statute authorize the requirement that a witness produce books and papers on giving deposition?	Pretrial Procedure - Memo # 2982- C - KG.docx	ROSS-003330058-ROSS-003330059
McKell v. Collins Colliery Co., 46 W. Va. 625	307A+69.1	A deposition once taken cannot be retaken without the leave of the court, which will be granted when justice seems to require it.	Are depositions retaken without an order of court properly excluded?	028806.docx	LEGALEASE-00134689-LEGALEASE-00134690
Salveson v. Cubin, 791 P.2d 581	307A+749.1	Whether or not parties in particular case are required to abide by holding that pretrial order controlled subsequent course of action in civil case is within broad discretion of trial judge. Rules Civ.Proc., Rule 16; District Court Rule 601.	Does the pretrial order controls the subsequent course of action?	Pretrial Procedure - Memo # 2989 - C - AP.docx	ROSS-003291663-ROSS-003291664
Evans v. Rothschild, 54 Kan. 747	307A+69.1	The adverse party has a right to be personally present at the taking of any deposition pursuant to notice. Code, S 352.	Does the adverse party have a right to be personally present at the taking of any deposition pursuant to notice?	028952.docx	LEGALEASE-00134212-LEGALEASE-00134213
Wells Fargo Bank, Nat. Ass'n v. Voorhees, 194 So.3d 448	307A+486	Rule allowing withdrawal of admissions gives the court the flexibility to change a ruling or permit a party to amend or withdraw admissions. West's F.S.A. RCP Rule 1.370(b).	Can a party move that an admission be withdrawn or amended?	029085.docx	LEGALEASE-00134575-LEGALEASE-00134576

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32nd Ave. LLC v. Angelo Holding Corp., 134 A.D.3d 696	307A+473	Certain items in notice to admit, served upon plaintiff LLC by individual third-party defendant in fraud action, improperly sought concessions that went to essence of the controversy between the parties and involved matters that were in contravention of allegations of complaint, such that individual third-party defendant could not have reasonably believed that admissions he sought were not in substantial dispute, and, thus plaintiff LLC was not obligated to respond to them, and they were not admitted by reason of plaintiff LLC's failure to respond to notice. McKinney's CPLR 3123(a).	"Does the rule governing admissions authorize the service of a notice to admit upon a party, and provides that if a timely response thereto is not served, the contents of the notice are deemed admitted?"	Pretrial Procedure - Memo # 3488 - C - NS.docx	ROSS-003317812-ROSS-003317813
Santos v. Dean, 96 Wash. App. 849	307A+472	Purpose of rule governing requests for admissions is to eliminate from controversy matters that will not be disputed at trial. CR 36.	"Is the purpose of rule, providing that if party fails to admit truth of any matter as requested in request for admissions the court may award reasonable expenses including attorney fees, to eliminate from controversy matters which will not be disputed?"	030023.docx	LEGALEASE-00134857-LEGALEASE-00134858
City of New Orleans v. Christian, 229 La. 855	371+2001	Character of a tax must be determined by its incidents, and name by which a tax is described in the statute is immaterial.	"Is the name by which a tax is described in the statute, immaterial?"	Taxation - Memo # 338 - C- NA.docx	LEGALEASE-00024604-LEGALEASE-00024605
City of New Orleans v. Christian, 229 La. 855	371+2001	Character of a tax must be determined by its incidents, and name by which a tax is described in the statute is immaterial.	"Is the name by which a tax is described in the statute, immaterial?"	045017.docx	LEGALEASE-00134452-LEGALEASE-00134453
St. Lucie Estates v. Ashley, 105 Fla. 534	371+2810	When legally assessed, taxing officers are powerless to compromise or release tax except as specifically authorized by statute, which must be rigidly pursued (Const. art. 9, S 5).	Is a tax predicated on contract?	045053.docx	LEGALEASE-00134280-LEGALEASE-00134281
Wilentz v. Hendrickson, 133 N.J. Eq. 447	371+2763	Interest does not inhere in a tax as a legal incident, but may be attached to a tax by legislative enactment.	Can interest be attached to a tax by legislative enactment?	Taxation - Memo # 440 - C - SS.docx	ROSS-003303662-ROSS-003303663
Martin Marietta Corp. v. Ins. Co. of N. Am., 40 Cal. App. 4th 1113	217+2310	Personal injury coverage for wrongful entry or eviction or other invasion of right of private occupancy under broad form comprehensive general liability (CGL) endorsement is not limited to landlord-tenant claims, but encompasses trespass and may encompass nuisance claims arising from pollution, whether or not defendant entered plaintiff's land with force and violence or threats thereof and with intent to oust plaintiff from possession.	Can a trespass claim include wrongful entry or invasion by pollutants?	047396.docx	LEGALEASE-00134795-LEGALEASE-00134796
Builders First Source-S. Texas, LP v. Ortiz, 515 S.W.3d 451	25T+363(1)	Arbitrator's sanctions orders against employee, who allegedly suffered on-the-job injuries, for discovery violations in arbitration proceedings on negligence claims against employer were final, rather than interlocutory, orders, and thus were subject to review by district court for evident partiality by the arbitrator, in light of worker's voluntary nonsuit of his claims without prejudice; when worker voluntarily nonsuited claims, only remaining claims for affirmative relief were sanctions motions, and once those motions were adjudicated, no further issues remained before arbitrator. 9 U.S.C.A. S 10(a)(2); Tex. R. Civ. P. 162.	Does Federal Arbitration Act (FAA) provide for any court intervention prior to issuance of arbitral award?	Alternative Dispute Resolution - Memo 632 - SB.docx	LEGALEASE-00024786-LEGALEASE-00024788

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United States v. Cogan, 266 F. Supp. 374	91+283	Indictment charging conspiracy, bribery and aiding and abetting receipt of bribes and alleging that internal revenue agents received fees not provided by law, that defendant offered agent's fees other than provided by law in recognition of acts performed by agents and that defendant through his employee offered money to agents to influence their official actions, and bill of particulars were sufficient to apprise defendant of charges against him, enable him to prepare his defense, avoid double jeopardy and avoid prejudicial surprise at trial. 18 U.S.C.A. SS 201, 371; 26 U.S.C.A. (I.R.C.1954) S 7214(a)(2).	Is a person convicted for aiding and abetting an agents violation under 26 U.S.C. 7214(a)(2) of the bribery statute?	Bribery - Memo #325 - C-EB.docx	ROSS-003290355-ROSS-003290356
United States v. Kummer, 89 F.3d 1536	63+1(1)	"With intent to be influenced" language of statute prohibiting offer, acceptance, or solicitation to influence operations of employee benefit plan prohibits bribe, which involves quid pro quo. 18 U.S.C.A. S 1954.	Does Section 1954 of the statute concerning bribes prohibit bribes and gratuities?	011525.docx	LEGALEASE-00135461-LEGALEASE-00135462
Lamar v. State, 603 So. 2d 1113	63+1(1)	Material element of crime of bribery is defendant's intent at time he attempted to bribe witness. Code 1975, S 13A-10-121.	What is a material element of the crime of bribery?	Bribery - Memo #387 - C-LB.docx	ROSS-003303599-ROSS-003303600
United States v. Arnone, 973 F. Supp. 206	350H+736	Loan used to finance building construction was not proper element of the improper benefit sentencing computation with respect to convictions for conspiracy and violation of bank bribery and gratuity statute; loan, with or without favorable modifications, represented real benefit to bank, real estate market was booming at time bank extended loan to one defendant and her partners, and deal with third party indicated in loan proposal submitted to bank's board of investment was not a complete illusion. 18 U.S.C.A. S 215; U.S.S.G. S 2B4.1, 18 U.S.C.A.	What is bank bribery?	Bribery - Memo #478 - C-JL.docx	ROSS-003303626-ROSS-003303627
Davenport v. State, 27 Ga. App. 284	110+29(11)	That defendant in breaking and entering the sheriff's office in the courthouse may have been guilty of larceny from the house under Penal Code 1910, S 180, does not prevent his trial and conviction for burglary from a place of business.	Is breaking and entering a place of business considered a burglary?	012627.docx	LEGALEASE-00135783-LEGALEASE-00135784
United States v. Andrello, 9 F.3d 247	350H+1262	For purposes of statute providing sentence enhancement for defendant who is convicted of unlawful possession of firearm and who has three prior convictions for violent felonies, the matter of whether crime other than one specifically identified as a violent felony in sentence enhancement statute involves conduct that presents serious potential risk of physical injury to another is question to be answered by reference to general definition of crime of which defendant was convicted. 18 U.S.C.A. S 924(e)(2)(B)(ii).	Is burglary a violent felony?	Burglary - Memo 129 - JS.docx	ROSS-003318561-ROSS-003318563
Coughlin v. City of Milwaukee, 227 Wis. 357	302+8(16)	A mere averment of duress, without setting out facts justifying such averment, is a conclusion of law.	Is the mere averment of duress a conclusion of law?	Pleading - Memo 317 - RMM.docx	ROSS-003290572-ROSS-003290573
Matter of Wong, 252 Mont. 111	307A+716	Seeking a continuance due to lack of representation does not ensure grant of continuance.	Does seeking a continuance due to lack of representation not ensure the grant of a continuance?	029235.docx	LEGALEASE-00135340-LEGALEASE-00135341

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Amari v. Molloy, 180 Misc. 2d 664	13+68	Plaintiff, whose counsel applied to withdraw, was not entitled to automatic stay of proceedings, under statute authorizing such stays in event of death, removal, or disability of attorney, since plaintiff had consented to withdrawal, which was akin to discharge of counsel, and statute did not apply to discharges. McKinney's CPLR 321(c).	Will the withdrawal of counsel entitle a party to an automatic continuance?	029375.docx	LEGALEASE-00135435- LEGALEASE-00135436
Sands v. State Through Louisiana State Med. Ctr., Sch. of Dentistry, 458 So. 2d 960	307A+716	A continuance is not due on a naked showing that a client has discharged his or her lawyer; to discharge one's lawyer, even without any cause, would otherwise enable one to delay going to trial forever.	Is a continuance not due on a naked showing that a client has discharged his or her lawyer?	029532.docx	LEGALEASE-00135693- LEGALEASE-00135694
Smith v. Turner, 48 U.S. 283	307A+69.1	A deposition cannot be taken in term time except by agreement of parties.	Can a deposition be taken in term time except by agreement of parties?	029620.docx	LEGALEASE-00134929- LEGALEASE-00134930
Miller v. Marina Mercy Hosp., 157 Cal. App. 3d 765	307A+483	Failure to answer a request for admissions is deemed an admission of matters contained in request. West's Ann.Cal.C.C.P. S 2033.	Is failure to answer a request for admissions deemed an admission of matters contained in the request?	Pretrial Procedure - Memo # 3541 - C - SK.docx	ROSS-003290832-ROSS-003290833
Robbins v. Allstate Ins. Co., 362 Ill. App. 3d 540	307A+483	The failure to respond to a request for admission results in the admission of the facts contained in the request. Sup.Ct.Rules, Rule 216(a).	Does the failure to respond to a request for admission result in the admission of the facts contained in the request?	029710.docx	LEGALEASE-00135453- LEGALEASE-00135454
Tennessee Dep't of Human Servs. v. Barbee, 714 S.W.2d 263	307A+483	Purpose of requests for admissions is to eliminate undisputed matters in order to reduce trial time by narrowing issues; such requests which are unanswered are deemed admitted and the matter requested is conclusively established. Rules Civ.Proc., Rule 36.02.	Are requests for admissions that are unanswered deemed admitted?	029718.docx	LEGALEASE-00135568- LEGALEASE-00135569
Fireman's Fund Ins. Co. v. Whirlpool Corp, 2002 WL 228208	307A+485	Unlike other discovery sanctions, an award of expenses for failure to respond to request for admission is not a penalty; instead, it is designed to reimburse reasonable expenses incurred by a party in proving the truth of a requested admission when any trial would have been expedited or shortened if the request had been admitted. West's Ann.Code Civ.Proc. S 2033(o).	"Is an award of expenses for failure to respond to request for admission, a penalty? "	Pretrial Procedure - Memo # 3822 - C - DA.docx	LEGALEASE-00025666- LEGALEASE-00025667
Pandozy v. Shamis, 254 S.W.3d 596	307A+716	Generally, the court should grant a continuance if a party has no attorney through no fault of his own. Vernon's Ann.Texas Rules Civ.Proc., Rule 251.	"Generally, should the court grant a continuance if a party has no attorney through no fault of his own?"	030122.docx	LEGALEASE-00135956- LEGALEASE-00135957
Wilentz v. Hendrickson, 133 N.J. Eq. 447	371+2763	Interest does not inhere in a tax as a legal incident, but may be attached to a tax by legislative enactment.	Does interest inhere in a tax as a legal incident?	045211.docx	LEGALEASE-00135944- LEGALEASE-00135945
Friedman v. Am. Sur. Co. of New York, 137 Tex. 149	371+2001	The exercise of the power of "eminent domain" takes property and not money, whereas the exercise of the power to "tax" takes money alone. Vernon's Ann.St.Const. art. 1, S 17.	"Does the exercise of the power of ""eminent domain"" take property?"	Taxation - Memo # 443 - C - SS.docx	ROSS-003291246-ROSS-003291247
Linley v. DeMoss, 83 Ohio App. 3d 594	386+10	Common-law tort in "trespass" upon real property occurs when person, without authority or privilege, physically invades or unlawfully enters private premises of another whereby damages directly ensue, even though such damages may be insignificant; act of nonconsensual entry may be intentional or negligent.	"Can a nonconsensual entry to anothers property, irrespective of whether intentional or negligent, cause a trespass?"	047372.docx	LEGALEASE-00135256- LEGALEASE-00135257
Kuhn v. Tumminelli, 366 N.J. Super 431	83E+503	The misappropriation of funds from a check is unauthorized, but does not convert an authorized endorsement into a forgery.	"If misappropriation of the funds is unauthorized, does that convert an authorized endorsement into a forgery?"	Bills and Notes- Memo 234- VP.docx	ROSS-003289118-ROSS-003289119

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President, etc., of Springfield Bank v. Merrick, 14 Mass. 322	8.30E+186	And the words "foreign bills," written underneath the body of a note, may be made to control it, and restrain its otherwise negotiable character.	Do the words foreign bills at the foot of a note otherwise negotiable form an essential part of the contract so as to defeat its negotiability?	Bills and Notes -Memo 238 -VP.docx	ROSS-003330496-ROSS-003330497
United States v. McGregor, 879 F. Supp. 2d 1308	63+1(1)	A campaign contribution transforms into a bribe when it is tied to a specific act; in other words, when there is a quid pro quo or a this for that.	When is a campaign contribution a bribe?	011308.docx	LEGALEASE-00136796-LEGALEASE-00136797
Sarver v. Allen Cty., By & Through Its Fiscal Court, 582 S.W.2d 40	200+105(1)	Though the statute which provides that "county roads" are public roads which have been accepted by the fiscal court of the county as part of the county road system necessarily implies that most "county roads" were public roads before they were accepted as county roads, it is not necessary that this be so; a county is statutorily empowered to lay out and establish a county road before acquiring the necessary right-of-way from the owners of the property over which it will be opened. KRS 178.010, 178.010(b), 178.080.	Are county roads accepted as public roads?	019242.docx	LEGALEASE-00136745-LEGALEASE-00136746
Hodges v. Rajpal, 459 S.W.3d 237	289+1161	A limited partner does not have standing to sue for injuries to the partnership that merely diminish the value of that partner's interest; the right of recovery belongs to the general partnership, even though the economic impact of the alleged wrongdoing may bring about reduced earnings, salary or bonus.	Do limited partners have a cause of action for damages to their interest in limited partnership?	022232.docx	LEGALEASE-00136285-LEGALEASE-00136286
State Matter of Camp Carson Mines, Ltd., 36 B.R. 554	289+1106	Certificate of limited partnership may be executed by general partner or some other person on behalf of another partner, and where partner signed for himself and for another, requirement that two or more persons sign or swear to certificate was satisfied. Bankr.Code, 11 U.S.C.A. S 101(30).	Do two or more persons need to sign and swear to a certificate in order to form a limited partnership?	022264.docx	LEGALEASE-00136353-LEGALEASE-00136354
Alford v. Zeigler, 65 Ga. App. 294	302+18	Reasonable definiteness and certainty in pleading is all that is required, and factitious demands by special demurrer should not be encouraged.	Is reasonable definiteness all that is required in a pleading?	023338.docx	LEGALEASE-00136494-LEGALEASE-00136495
Jie v. Certified Lloyds Plan, 34,545 (La. App. 2 Cir. 4/4/01)	307A+483	Failure to timely answer a request for admissions should not automatically result in admission of the facts. LSA-C.C.P. arts. 1467, 1468.	Does a party's failure to timely respond to a request for admissions result in matters being automatically admitted?	029857.docx	LEGALEASE-00136876-LEGALEASE-00136877
Schwan's Sales Enterprises v. Idaho Transp. Dep't, 142 Idaho 826	30+3332	Trial court's decision to award attorney fees as sanction under rule governing failure to admit during discovery genuineness of documents or truth of any matter requested to be admitted is reviewed under the abuse-of-discretion standard. Rules Civ.Proc., Rule 37(c).	"Is court's decision to award attorney fees as sanction, discretionary?"	029975.docx	LEGALEASE-00136459-LEGALEASE-00136460

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Gonzales v. Surplus Ins. Servs., 863 S.W.2d 96	92+4011	Defendant's failure to respond to plaintiff's request for admissions for no good reason amounted, in practical terms, to procedural default as to plaintiff's motion for summary judgment, and defendant was not denied due process, even though plaintiff failed to establish that defendant received actual notice of summary judgment hearing; admissions were deemed admitted by operation of law due to defendant's failure to timely answer request, defendant failed to file motion to file answers late, plaintiff's case against defendant was proved by deemed admissions, notice of summary judgment hearing was therefore essentially moot, since defendant was legally precluded from introducing any evidence controverting deemed admissions, trial court was essentially performing ministerial act in granting summary judgment motion, and defendant's explanations and excuses were provided to trial court during hearing on his motion for new trial. Vernon's Ann.Texas Rules Civ.Proc., Rules 21a, 166a, 169; U.S.C.A. Const.Amend. 14.	Can deemed admissions not be contradicted by other summary judgment evidence?	030187.docx	LEGALEASE-00136696- LEGALEASE-00136697
H. Richards Oil Co. v. W. S. Luckie, 391 S.W.2d 135	157+222(10)	Allowance of one defendant's admissions against all defendants in action for materials supplied was error in absence of showing that the defendant to whom admissions were directed was other defendants' agent or had authority to represent them.	"Are admissions directed to one defendant, whether answered, or admitted by reason of failure to answer, evidence against other defendants in the same case?"	030224.docx	LEGALEASE-00136355- LEGALEASE-00136356
Henke Grain Co. v. Keenan, 658 S.W.2d 343	307A+483	Deemed admissions can be used to support granting of summary judgment.	Can deemed admissions be used to support granting of summary judgment?	030228.docx	LEGALEASE-00136373- LEGALEASE-00136374
California Viking Sprinkler Co. v. Pac. Indem. Co., 213 Cal. App. 2d 844	307A+749.1	Parties by their conduct could make clear an issue which pretrial definition did not make clear.	Can parties by their conduct make clear an issue which pretrial definition did not make clear?	Pretrial Procedure - Memo # 4081 - C - NS.docx	ROSS-003317627-ROSS- 003317628
Gen. Acc. Fire & Life Assur. Corp. v. Cohen, 203 Va. 810	307A+483	Matters admitted for want of answer to request for admissions are admitted only as stated in the request. Code 1950, S 8-111.1.	Are matters admitted for want of answer to request for admissions admitted only as stated in the request?	030451.docx	LEGALEASE-00136345- LEGALEASE-00136346
D. H. v. State, 76 Wis. 2d 286	211+2990	Failure to grant continuance in juvenile court waiver proceedings is not improper where no request therefor was made. W.S.A. 48.18.	Is failure to grant continuance not improper where no request was made?	030813.docx	LEGALEASE-00136838- LEGALEASE-00136839
Kawasaki Kisen Kaisha, Ltd. v. Plano Molding Co., 696 F.3d 647	308+101(2)	Intermediaries entrusted with goods are cargo owners' agents only in their ability to contract for liability limitations with carriers downstream.	"Are intermediaries entrusted with goods, agents?"	Principal and Agent - Memo 98 - KC.docx	ROSS-003304685-ROSS- 003304686
Shinyu Noro v. United States, 148 F.2d 696	24+136	In a civil court trying an alien enemy for a crime committed in peacetime, constitutional safeguards of accused must be maintained, notwithstanding that it may be true that accused, by executive power, may be summarily arrested and interned and his property sequestered.	Are constitutional safeguards available to an alien?	007003.docx	LEGALEASE-00137533- LEGALEASE-00137534
Nichols & Shepard Co. v. Dedrick, 61 Minn. 513	8.30E+126	An agreement to extend the time of payment of a debt is sufficient consideration for the execution by a third party of his note to the creditor as collateral security for the payment of such debt.	Whether an agreement to extend the time of payment of debt constitutes sufficient consideration?	Bills and Notes- Memo 314-PR.docx	ROSS-003303813-ROSS- 003303814

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Blackwood, 768 F.2d 131	164T+24(4)	Public official's use of his office to obtain money not due him or his office is crux of Hobbs Act requirement that official extort property from another "under color of official right." 18 U.S.C.A. SS 1951, 1951(b)(2).	What is extortion under color of official right?	011843.docx	LEGALEASE-00137598-LEGALEASE-00137599
Minter v. State, 70 Tex. Crim. 634	67+9(0.5)	Under Sand. & H.Dig., S 1492, if one either break or enter the house of another in the night time with intent to commit a felony, he is guilty of burglary.	Is both breaking and entering necessary for burglary?	Burglary - Memo 146 - JS.docx	ROSS-003316276-ROSS-003316278
Knox Coll. v. Celotex Corp., 85 Ill. App. 3d 714	302+53(1)	Although pleading combined several causes of action in one count, allegations of count were specific enough to reasonably inform defendant of claims it was to meet and, therefore, count was not bad in substance and should not have been stricken. S.H.A. ch. 110, S 33(2).	"Is a pleading which reasonably informs the opposite party of the nature of the claim which it is called upon to meet, bad in substance?"	Pleading - Memo 345 - RMM.docx	ROSS-003302940-ROSS-003302941
Lambert v. Bunge Corp., 169 So. 2d 207	307A+716	Illness of principal counsel in trial of case is good ground for continuance. LSA-C.C.P. art. 1601.	"Is the sickness of the principal counsel of the defendant, the other not being prepared to go on to trial, good ground for a continuance at the cost of the defendant?"	030132.docx	LEGALEASE-00137390-LEGALEASE-00137391
Bienenfeld v. Mortg. Comm'n, 161 Misc. 311	307A+91	Before an examination will be ordered, complaint must allege a cause of action.	"Before an examination will be ordered, must a complaint allege a cause of action?"	Pretrial Procedure - Memo # 4459 - C - NS.docx	ROSS-003290690-ROSS-003290691
In re Einhorn's Estate, 138 N.Y.S.2d 840	307A+91	An examination of party before trial must be legitimately sought, and the party seeking it must act in good faith. Civil Practice Act, SS 288 et seq., 309.	Should an examination of a party before trial be legitimately sought?	Pretrial Procedure - Memo # 4487 - C - SK.docx	ROSS-003331152-ROSS-003331153
Vaughan v. John Hancock Mut. Life Ins. Co., 61 S.W.2d 189	307A+720	Adversary has right to time to examine pleadings allowed by court.	Does the adversary have the right to time to examine pleadings allowed by court?	031302.docx	LEGALEASE-00137408-LEGALEASE-00137409
State ex rel. Spring River Elec. Power Co. v. Thurman, 232 Mo. 130	307A+725	The circuit court has power to impose, as a condition to the granting of a continuance of a cause which has stood on the docket for about five years and has been repeatedly continued, that the plaintiff pay the accrued costs at least 10 days before the beginning of the next term, and in default of such payment that the cause stand as dismissed.	Is the trial court vested with the power to impose terms as the condition for granting a continuance?	031354.docx	LEGALEASE-00137410-LEGALEASE-00137411
Wolosin v. Campo, 256 A.D.2d 332	307A+726	Plaintiff was not entitled to lengthier adjournment prior to trial on defendant's counterclaim, where trial court postponed jury selection and trial at plaintiff's request, and action had appeared on trial assignment part calendar on nine previous occasions.	When would a plaintiff not be entitled to lengthier adjournment prior to trial on defendant's counterclaim?	031454.docx	LEGALEASE-00137594-LEGALEASE-00137595
In re Frank A. Smith Sales, 32 S.W.3d 871	307A+36.1	Settlement agreements, including the amount of the settlement, are discoverable where they are shown to be relevant. Vernon's Ann.Texas Rules Civ.Proc., Rule 166b, subd. 2, par. f(2) (Repealed).	"Are settlement agreements, including the amount of the settlement, discoverable where they are shown to be relevant?"	031969.docx	LEGALEASE-00138091-LEGALEASE-00138092
Moe v. Zitek, 75 N.D. 222	308+102(2)	Employment of attorney need not be directly by client, but agent with proper authority may employ attorney to bring suit in principal's name.	Can an agent employ an attorney for his/her principal?	Principal and Agent - Memo 71 - KC.docx	ROSS-003291210-ROSS-003291211
Cromwell v. United States, 42 Ct. Cl. 432	34+13.1(3)	The navy personnel act as amended by Act June 7, 1900, c. 859, 31 Stat. 697, 34 U.S.C.A. S 251, is not incompatible with Rev.St. S 1556, fixing the pay of a rear admiral. The earlier statute continues operative as regards the excepted class of officers in service when the navy personnel act was enacted.	"Though the general object of the navy personnel act was to equalize army and navy pay, did the act operate to reduce pay previously fixed for naval officers?"	Armed Services - Memo 221 - SB.docx	ROSS-003287098-ROSS-003287099

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Maryland Tr. Co. v. Gregory, 129 W. Va. 35	83E+375	An indorsement of negotiable note "for collection" was a "restrictive indorsement" which barred any further negotiation of the note and vested title in indorsee for use of indorser. Code, 46-3-7.	Whether restrictive indorsement are negotiable?	009439.docx	LEGALEASE-00138126-LEGALEASE-00138127
Flynn v. Currie, 130 Me. 461	8.30E+76	Where drawer of check stops payment thereon, he is liable to holder of check for consequences of his conduct.	Can a drawer be liable for the consequences of stopping a payment?	010133.docx	LEGALEASE-00138800-LEGALEASE-00138801
In re Winborne's Will, 231 N.C. 463	8.30E+76	A "check" is nothing more than a bill of exchange drawn on a bank and it does not operate as an assignment of any part of funds to the credit of drawer with the bank until it is presented to and accepted by the bank on which it is drawn and drawer may at any time before acceptance by the bank stop payment or withdraw his funds from the bank. G.S. SS 25-192, 25-197.	Does the drawer have authority to withdraw his funds or stop the payment from the bank anytime?	010150.docx	LEGALEASE-00138836-LEGALEASE-00138837
Smith v. McKeller, 638 So. 2d 1192	8.30E+56	The word "promise" does not have to be used ritualistically to confect a promissory note; instead, words "to be paid on demand" are sufficient to confect a promissory note.	Does the word promise have to be ritualistically used to confect a promissory note?	010251.docx	LEGALEASE-00138416-LEGALEASE-00138417
Pennsylvania Pub. Sch. Employees' Ret. Sys. v. Morgan Stanley & Co., 772 F.3d 111	83E+481	Under New York law, specific incantations of "assignment" are unnecessary to perfect a transfer of a note.	It is necessary to have specific incantations of assignment to perfect a transfer?	Bills and Notes -Memo 385 -VP.docx	ROSS-003301559-ROSS-003301560
United States v. Forszt, 655 F.2d 101	63+1(1)	In Indiana it is soliciting or receiving of money by official to influence him with respect to his official duties that is gravamen of offense of bribery. Burns' Ind.St.Ann. S 10-602.	What is the gravamen of the offense of bribery?	011879.docx	LEGALEASE-00138604-LEGALEASE-00138605
State v. Kahinu, 53 Haw. 646	67+41(3)	Intent to commit larceny or any felony may be established by inference from the surrounding circumstances and accompanying and attendant acts of the person accused. HRS S 726-1.	What are the circumstances from which intent may be inferred in burglary?	Burglary - Memo 167 - KNR.docx	ROSS-003316286-ROSS-003316288
United States v. Marotz, 75 F. Supp. 3d 1167	393+295	Actual notice, pursuant to pursuant to the statutory mandate that regulations be posted in a conspicuous place in federal property, requires that law officers give a potential arrestee notice that he will be arrested if he continues his objectionable conduct. 40 U.S.C.A. S 1315(c); 41 C.F.R. S 102-74.365.	Will actual notice fulfills the purpose of conspicuous posting requirement?	Disorderly Conduct-Memo 34- PR.docx	ROSS-003290461-ROSS-003290462
Steuben Twp. of Steuben Cty. v. Lake Shore & M.S. Ry. Co., 58 Ind. App. 529	64+27	Highways, including bridges, forming part thereof, belong to state, and an action for destruction of bridge is not maintainable by township or county on theory of property loss; but where bridge has been negligently destroyed, township may sue therefor, unless the county must restore it; and where township failed to repair such bridge, county, repairing it, could sue for injury.	Can the township or town recover damages from the wrong doer for the injury to the roads and bridges?	018960.docx	LEGALEASE-00138830-LEGALEASE-00138831
Bedell v. Duniven, 77 Cal. App. 2d 145	200+183	A pedestrian crossing a roadway within a pedestrian crosswalk has duty to exercise reasonable care.	Does a pedestrian have the duty to exercise reasonable care?	Highways -Memo 125 - KC.docx	ROSS-003302283-ROSS-003302284
Bell v. Nat'l Life & Acc. Ins. Co., 41 Ala. App. 94	302+9	It is sometimes permissible and necessary for a pleader to draw conclusions where facts are alleged that tend to support such conclusion, and it is only "mere conclusions" or "bald conclusions" without supporting facts which are objectionable in pleading.	When is it necessary for the pleader to draw conclusions?	Pleading - Memo 364 - RMM.docx	ROSS-003290593-ROSS-003290594
Bowen v. Mewborn, 218 N.C. 423	302+8(1)	A conclusion deduced by pleader is mere brutum fulmen, unless supported by facts stated in pleading.	Is a deduced conclusion a mere brutum fulmen?	023409.docx	LEGALEASE-00138786-LEGALEASE-00138787

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Conner v. Sampson, 22 Tex. 20	307A+723.1	An application for a continuance for the absence of a witness must show that the witness has had a reasonable notice by subpoena, and what notice is reasonable depends upon all the circumstances of the case.	Must an application for a continuance for the absence of a witness show that the witness has had a reasonable notice by subpoena?	030873.docx	LEGALEASE-00138752- LEGALEASE-00138753
Humburg v. Namura, 13 Haw. 702	231+146(1)	A district magistrate's order continuing an action for rent until the termination of a bankruptcy cause in the federal court, that is to say, for an indefinite and uncertain time, is equivalent to an order of dismissal and is a "final order," and is appealable.	Is an indefinite continuance by a magistrate equivalent to an order of dismissal?	031609.docx	LEGALEASE-00138264- LEGALEASE-00138265
Stogner v. Albright, 219 A.D. 748	307A+91	An examination before trial that is not sought in good faith to be used upon the trial will be refused.	Are examinations before trial that is not sought in good faith to be used upon the trial not favoured by the courts?	031710.docx	LEGALEASE-00138393- LEGALEASE-00138394
Stevenson v. Illinois Cent. R. Co., 157 Ky. 561	307A+74	Under Civ.Code Prac. S 585, a deposition cannot be read in evidence unless it is filed with the papers of the case before the commencement of the trial.	Can a deposition be read in evidence unless it is filed with the papers of the case before the commencement of the trial?	031790.docx	LEGALEASE-00138130- LEGALEASE-00138131
Capra v. Phillips Inv. Co., 302 S.W.2d 924	307A+74	A witness at trial may correct his deposition testimony and give reasons for so doing. Sections 492.340, 492.350 RSMo 1949, V.A.M.S.	Can a witness at trial correct his deposition testimony and give reasons for so doing?	Pretrial Procedure - Memo # 5089 - C - SB.docx	ROSS-003304657-ROSS- 003304658
Ebersole v. S. Bldg. & Loan Ass'n, 147 Ala. 177	307A+71	Under Code 1896, S 1841, making it the duty of a commissioner to reduce the answers of a witness to writing, or cause it to be done by the witness himself or some impartial person, a commissioner is not required to himself take down the answers of a witness in the commissioner's own handwriting.	Should the commissioner require the questions to be reduced to writing?	032455.docx	LEGALEASE-00138906- LEGALEASE-00138907
United States v. Fernandez, 722 F.3d 1	63+3	State legislators are not categorically exempt from prosecution under the federal bribery statute; the plain language of the statute includes a "representative" of a "government" in the list of positions that fall under the statute's definition of "agent," and there is no more classic government "representative" than a legislative branch officer. 18 U.S.C.A. S 666(d)(1).	Are state legislators categorically exempt from prosecution under the federal bribery statute?	Bribery - Memo #571 - C - LB.docx	ROSS-003315829-ROSS- 003315830
People v. Nichols, 196 Cal. App. 2d 223	67+29	Burglarios intent could be justifiably inferred from evidence of unlawful and forcible entry. West's Ann.Pen.Code, S 459.	Can intent to commit burglary be inferred from forcible entry?	012810.docx	LEGALEASE-00139097- LEGALEASE-00139098
Oshinsky v. Gumberg, 188 A.D. 23	307A+172	Departure from general rule that applicant can have examination of adverse party before trial to prove his own case only is justified, where there is a fiduciary relation between the parties, and when the facts are peculiarly within the knowledge of the adverse party, or where a defense unanswered and established would destroy plaintiff's cause of action.	"Where the relationship of a principal and agent to an action, should the technical rules governing examination of a party before trial be relaxed?"	Pretrial Procedure - Memo # 4436 - C - KG.docx	LEGALEASE-00028986- LEGALEASE-00028988
Hefty v. Strickhouser, 2008 WI 96	307A+747.1	Litigants are expected to follow circuit court scheduling orders.	Are litigants expected to follow circuit court scheduling orders?	Pretrial Procedure - Memo # 5006 - C - KBM.docx	ROSS-003291275-ROSS- 003291276
Guy v. Arthur H. Thomas Co., 55 Ohio St. 2d 183	413+1	Genesis of workers' compensation was the inability of the common-law remedies to cope with modern industrialism and its inherent injuries to workers. R.C. S 4123.01 et seq.	What is the genesis of workers compensation?	047792.docx	LEGALEASE-00139239- LEGALEASE-00139240

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Ewer v. Johnson, 44 Wash. 2d 746	48A+246(11)	Instruction, in action for injuries sustained in seven-automobile head and tail collision in dust storm, on duty of drivers driving in dust clouds, was not subject to claimed infirmity of requiring exercise of a degree of care greater than that which should be exercised by a careful and prudent person.	What is the degree of care to be exercised while driving through dust?	Highways -Memo 161-IS.docx	LEGALEASE-00029253-LEGALEASE-00029254
Oatman v. Andrew, 43 Vt. 466	307A+74	After a deposition is filed, the magistrate who took it has no authority to amend the caption; but the court may ratify and render valid such unauthorized amendment.	"After a deposition is filed, does the magistrate who took it have no authority to amend the caption?"	032267.docx	LEGALEASE-00139423-LEGALEASE-00139424
Bishop v. Hilliard, 227 Ill. 382	307A+74	It is not necessary that certificates of the official character of the officer before whom depositions are taken accompany the depositions, but they may be produced in court at hearing and the notary's official character there be established.	Is it necessary that certificates of the official character of an officer accompany the depositions?	Pretrial Procedure - Memo # 5276 - C - TM.docx	ROSS-003287880-ROSS-003287881
Purdy & Fitzpatrick v. State, 71 Cal. 2d 566	24+116	Discrimination on basis of alienage invokes strict standard of review.	Does discrimination on the basis of alienage invoke a strict standard of review?	"Aliens, Immigration and Citizenship - Memo 6 - RK.docx"	ROSS-003287919-ROSS-003287920
Matter of Spangler, 56 B.R. 990	343+517(1)	Whether an agreement is a lease or sale under U.C.C. S 1-201(37) requires, at the threshold, determination of intent of parties to the transaction.	Does the intent of the parties determine the transaction?	009397.docx	LEGALEASE-00140191-LEGALEASE-00140192
Slutsky v. Blooming Grove Inn, 147 A.D.2d 208	83E+415	Valid transfer of note required endorsement on note or firmly affixed paper. McKinney's Uniform Commercial Code SS 3-104, 3-202(2-4).	Whether a valid transfer of note requires endorsement on note or firmly affixed paper?	010309.docx	LEGALEASE-00139907-LEGALEASE-00139909
Marshall v. Staley, 528 P.2d 964	83E+481	Love and affection between decedent and his stepdaughters was sufficient consideration to support assignment of note from the decedent to his stepdaughters.	Are love and affection sufficient consideration required for an assignment of the note?	Bills and Notes -Memo 419 -DB.docx	ROSS-003290848
Neal v. Bradley, 238 Ark. 714	83E+481	Generally, recordation statutes do not apply to assignments of notes unless specifically so stated.	Do recordation statutes apply to assignment of notes?	010350.docx	LEGALEASE-00140187-LEGALEASE-00140188
Ingram v. Earthman, 993 S.W.2d 611	8.30E+06	Note that was not negotiable was not governed by Uniform Commercial Code (UCC), and thus, rights and liabilities of parties to note had to be found in common law of bills and notes and in contract law.	Are nonnegotiable instruments governed by common law?	Bills and Notes -Memo 431 -DB.docx	LEGALEASE-00029694-LEGALEASE-00029695
People's Bank of Mobile v. Moore, 201 Ala. 411	83E+316	Instruments drawn upon, or payable out of a particular fund, are not negotiable.	Are instruments drawn upon or payable out of a particular fund negotiable?	Bills and Notes- Memo 523-PR.docx	ROSS-003327678-ROSS-003327679
United States v. Allen, 10 F.3d 405	63+1(1)	Extortion under color of official right and bribery are really different sides of the same coin; extortion under color of official right equals the knowing receipt of bribes and it is extortion if the official knows that the bribe is motivated by a hope that it will influence him in the exercise of his office and if, knowing that, he accepts the bribe.	Are extortion and bribery different sides of the same coin?	Bribery - memo #587 - C-CSS.docx	ROSS-003301621-ROSS-003301622
People v. Herron, 251 P.3d 1190	63+1(1)	To commit offense of bribery, it is not required that the act to be influenced be performed. S.H.A. ch. 38, S 33-1(d, e).	"In order to commit the offense of bribery, does the statute require that the act to be influenced be performed?"	Bribery - Memo #611 - C-JL.docx	ROSS-003288857-ROSS-003288858
Second Measure v. Kim, 143 F. Supp. 3d 961	289+560	Under California law, one partner can be liable to another for conversion of partnership property.	Can one partner be liable to another for conversion of partnership property?	022337.docx	LEGALEASE-00139763-LEGALEASE-00139764

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Firemen's Relief Ass'n of Washington v. Minehart, 430 Pa. 66	296+2	A "pension" is merely a bounty for past services, designed to provide recipient with his daily wants. (Per Roberts, J., with two justices concurring and one justice concurring in result). 72 P.S. S 2262.	Is a pension a bounty for past services?	022774.docx	LEGALEASE-00140530- LEGALEASE-00140531
Mount v. Trustees of Pub. Emp. Ret. Sys. of New Jersey, 133 N.J. Super. 72	316P+385	Public employee's pension rights and benefits are based upon and fall within scope of statutes governing Public Employees' Retirement System. N.J.S.A. 43:15A-6 et seq.	Does a right to pension depend on a granting statute?	022784.docx	LEGALEASE-00140542- LEGALEASE-00140543
Ledwith v. Bankers Life Ins. Co., 156 Neb. 107	296+2	A pension, granted for services previously rendered, fully paid for when rendered, and giving rise to no legal obligation for further compensation, is a gratuity.	When can a pension be regarded as a gratuity?	022794.docx	LEGALEASE-00140554- LEGALEASE-00140555
Caterpillar Indus. v. Keskes, 639 So. 2d 1129	307A+36.1	Substantial similarity must be established before similar accidents or incidents are discoverable.	Must substantial similarity be established before similar accidents or incidents are discoverable?	032409.docx	LEGALEASE-00140384- LEGALEASE-00140385
Harvey v. Osborn, 55 Ind. 535	307A+74	Where a deposition is taken before the "clerk of a court of record," he must certify to the same under the seal of such court.	"Where a deposition is taken before the ""clerk of a court of record,""" must he certify to the same under the seal of such court?"	032447.docx	LEGALEASE-00140474- LEGALEASE-00140475
Terry v. Cmty. Health Network, 17 N.E.3d 389	30+3212	The standard of review on appeal of a trial court's ruling on a motion to dismiss for lack of subject-matter jurisdiction is dependent upon (1) whether the trial court resolved disputed facts, and (2) if the court resolved disputed facts, whether it conducted an evidentiary hearing or ruled on a paper record.	"In ruling on a motion to dismiss for lack of subject matter jurisdiction, can the trial court consider the complaint?"	Pretrial Procedure - Memo # 5686 - C - SN.docx	LEGALEASE-00030336- LEGALEASE-00030337
Knight v. Nichols, 34 Me. 208	307A+74	A deposition is admissible though it be not stated in the caption at whose request it was taken.	Is a deposition admissible though it be not stated in the caption at whose request it was taken?	033476.docx	LEGALEASE-00140406- LEGALEASE-00140408
Covington v. Int'l Ass'n of Approved Basketball Officials, 710 F.3d 114	308+159(1)	Vicarious liability due to an agency relationship can be based on apparent authority; "apparent authority" arises in those situations where the principal causes persons with whom the agent deals to reasonably believe that the agent has authority despite the absence of an actual agency relationship.	Can Vicarious Liability be based on Actual Authority?	Principal and Agent - Memo 103 - GP.docx	ROSS-003329205-ROSS- 003329206
First Ins. Co. of Hawaii v. Jackson, 67 Haw. 165	366+41(6)	In classical subrogation action, burden of proof is upon party claiming subrogation to show that he is entitled to it.	Who has the burden to prove an entitlement while claiming subrogation?	043355.docx	LEGALEASE-00139715- LEGALEASE-00139716
Wilkins v. Gibson, 113 Ga. 31	366+23(2)	Where one advances money to pay off an incumbrance on realty under an agreement that the advance made is to be secured by a lien on the property, delay on the part of an intervening incumbrancer to prosecute his legal remedies and indulgences granted by him to the debtor, brought about by the fact that the lien to which subrogation is asked had been canceled on the records, will, when accompanied by substantial damage to the rights of the intervening incumbrancer, be a sufficient reason for a court of equity to refuse the person advancing the money the right of subrogation and a decree setting aside the cancellation, when the claim of subrogation is not asserted within a reasonable time after knowledge that the prior incumbrance has been canceled of record.	Will subrogation be allowed if the person claiming the right of subrogation has unreasonably delayed in asserting such right?	043538.docx	LEGALEASE-00139917- LEGALEASE-00139918
Poole v. William Penn Fire Ins. Co., 264 Ala. 62	366+35	Intentional relinquishment of a known right amounts to a waiver of subrogation rights.	Does intentional relinquishment of a known right amount to a waiver of subrogation rights?	043561.docx	LEGALEASE-00140015- LEGALEASE-00140016

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Sanford v. Walther., 467 S.W.3d 139	371+2763	Unlike taxes, interest on state-tax delinquencies is not levied generally on all taxpayers for the purpose of raising revenue, for purposes of reviewing illegal exaction claims.	Are interest on tax delinquencies the same as taxes?	044676.docx	LEGALEASE-00140165- LEGALEASE-00140166
Sciscoe v. Enbridge Gathering (N. Texas), 519 S.W.3d 171	386+12	A trespass does not have to be committed in person but may be caused by allowing or causing something to cross the boundary of the property in question.	Does a trespass need to be committed in person?	047429.docx	LEGALEASE-00140623- LEGALEASE-00140624
Fields v. Blake, 349 F. Supp. 2d 910	34+28(2)	Commanding officer of a military base has wide discretion as to whom he can exclude from the base.	Does the Commanding officer of a military base have wide discretion as to whom he can exclude from the base?	Armed Services - Memo 243 - TB.docx	ROSS-003287110-ROSS- 003287111
Bradford v. Union Tr. Co., 242 Ky. 709	83E+868	Evidence held not to show binding agreement between maker and purchaser of note to extend time for payment so as to discharge indorser from liability. Ky. St. S 3720b-120, subd. 6; Comp. Gen. Laws Fla. 1927, S 6872.	Can an agreement to delay the day of payment without consideration bind the holder?	010467.docx	LEGALEASE-00141543- LEGALEASE-00141544
Jacobs v. Pierce, 132 Ill. App. 547	83E+498	Where a payee or assignor of a promissory note has been required to take up note, his right of action revives.	When does the right of action revive to the payee of a promissory note?	010483.docx	LEGALEASE-00140814- LEGALEASE-00140815
Baker Bank & Tr. Co. v. Behrnes, 217 So. 2d 461	83E+412	The pledgee of a bearer note is a "holder" and if he satisfies statutory requirements, he is a "holder in due course". LSA-C.C. art. 3158; LSA-R.S. 7:52.	Can a pledgee of a note be a holder in due course?	010496.docx	LEGALEASE-00141067- LEGALEASE-00141068
People v. Manfredi, 166 A.D.2d 460	63+3	Person who pays coerced bribe is not guilty of criminal conduct and cannot be accomplice of bribe receiver. McKinney's Penal Law S 200.05; McKinney's CPL S 60.22.	Should a person be an accomplice of bribery if he was coerced to pay the bribe?	012108.docx	LEGALEASE-00140786- LEGALEASE-00140787
People v. Woodruff, 9 Ill. 2d 429	63+1(2)	A de facto officer is punishable for accepting or soliciting a bribe in the same manner as if he were an officer de jure, and it is likewise bribery to offer or to give him a bribe.	Is an officer de facto punishable for accepting or soliciting a bribe?	012113.docx	LEGALEASE-00140826- LEGALEASE-00140827
Shields v. Blue Grass Ordnance Depot, 308 Ky. 496	231H+2380(4)	Where overtime compensation is sought under Fair Labor Standards Act in a Portal-to-Portal suit on ground that claim is not barred by the Portal-to-Portal Act because within exception dealing with custom and practice, facts must be alleged showing that such custom or practice was certain, general, uniform, and recognized. Portal-to-Portal Act of 1947, S 1 et seq., 29 U.S.C.A. S 251 et seq.; Fair Labor Standards Act of 1938, S 16(b), 29 U.S.C.A. S 216(b).	"In order to establish a custom, must it be proven that it is uniform and recognized by the law as essential?"	014131.docx	LEGALEASE-00141720- LEGALEASE-00141721
Rosenberg Bros. & Co. v. U.S. Shipping Bd. Emergency Fleet Corp., 7 F.2d 893	113+19(3)	Custom or usage, to be binding, must be definite, uniform, and well known, and be established by clear and satisfactory evidence, and shown to be long-established, reasonable, and generally acquiesced in.	How should the evidence of usage be established?	014144.docx	LEGALEASE-00141734- LEGALEASE-00141735
Baker v. J.W. McMurry Contracting Co., 282 Mo. 685	113+3	To be binding, a custom must, among other requisites, be certain, uniform, general, and of long existence.	Does a custom have to be of long existence in order to be binding?	014161.docx	LEGALEASE-00141779- LEGALEASE-00141780
Cont'l Coal Co. v. Birdsall, 108 F. 882	113+3	A custom of the port in which a charter was made, in order to be admissible to explain the charter must be reasonable, certain, consistent with the contract, and not contrary to law, and so general, and long established that the parties are conclusively presumed to have contracted with reference to it.	Does custom have to be uniform and notorious to be presumed to be understood by parties?	014196.docx	LEGALEASE-00141878- LEGALEASE-00141879
Padilla-Mangual v. Pavia Hosp., 516 F.3d 29	135+1	Person's domicile is the place where he has his true, fixed home and principal establishment, and to which, whenever he is absent, he has the intention of returning. 28 U.S.C.A. S 1332(a)(1).	What is a person's domicile?	014469.docx	LEGALEASE-00141813- LEGALEASE-00141814

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
No. 3 Oakland Suburban Heights v. Bekermeier, 94 Ill. App. 2d 67	200+77(1)	Under statute relating to vacation of portion of highway by county highway superintendent assessment of damages is not jurisdictional when proceeding is for vacation only, and assessment of damages is jurisdictional only when there is a taking of land. S.H.A. ch. 121, SS 6-306, 6-315a.	When is the ascertainment or assessment of damages jurisdictional in reference to the vacation of a highway?	Highway-Memo 164-ANM.docx	ROSS-003301820-ROSS-003301821
Pit River Tribe v. Bureau of Land Mgmt., 306 F. Supp. 2d 929	170A+1061	Genuine issue of material fact as to whether Bureau of Land Management's (BLM) improperly continued geothermal leases on federal land as unit, rather than addressing leases one-by-one to determine whether extensions of those leases ought to be granted, precluded judgment on pleadings in tribe's action alleging that BLM's action violated Geothermal Steam Act, National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and federal government's fiduciary trust obligation to tribe. National Historic Preservation Act, S 106, 16 U.S.C.A. S 470f; Geothermal Steam Act of 1970, S 6(a, g), 30 U.S.C.A. S 1005(a, g); National Environmental Policy Act of 1969, S 2 et seq., 42 U.S.C.A. S 4321 et seq.	Did the congress enact the Geothermal Steam Act to promote the development of geothermal leases on federal lands?	021141.docx	LEGALEASE-00140970-LEGALEASE-00140971
Teselle v. McLoughlin, 173 Cal. App. 4th 156	302+11	A complaint measures the materiality of the facts asserted as a cause of action; it ordinarily does not assert an evidentiary fact.	Does a complaint measure the materiality of the facts asserted as a cause of action?	023460.docx	LEGALEASE-00141364-LEGALEASE-00141365
Barrow v. Bement, 239 S.W. 273	307A+723.1	A motion for a continuance to procure testimony which fails to allege due diligence as required by the statute is fatally defective.	"Is an application for a continuance bad which fails to state that the party has used due diligence, although the facts stated may seem to show diligence?"	Pretrial Procedure - Memo # 4296 - C - TM.docx	LEGALEASE-00031122-LEGALEASE-00031123
Skelton v. Gen. Candy Co., 539 S.W.2d 605	307A+720	A party is not conclusively bound by estimates of time, speed or distance.	"Is a party not conclusively bound by estimates of time, speed or distance?"	030717.docx	LEGALEASE-00141487-LEGALEASE-00141488
Vega v. State, 898 S.W.2d 359	110+603.2	Trial court did not abuse its discretion in refusing to grant defendant's oral motion for continuance on the third day of trial; defendant was required to make written motion. Vernon's Ann.Texas C.C.P. art. 29.03.	Is an oral motion for continuance insufficient to constitute a basis of reversal for refusing to continue?	030739.docx	LEGALEASE-00141563-LEGALEASE-00141564
Home Ins. Co. v. Gonzalez, 648 So. 2d 291	307A+91	Rule governing depositions before action or pending appeal is intended to be used only for preservation of evidence and not for presuit discovery. West's F.S.A. RCP Rules 1.290(a)(1), 1.290 comment.	Is Rule 1.290(a)(1) intended to be used only for preservation of evidence and not for pre-suit discovery?	031327.docx	LEGALEASE-00140726-LEGALEASE-00140727
Miller v. McDonald, 13 Wis. 673	30+3914	Where it appears from the deposition that a portion of the testimony favorable to the party taking it, "was objected to," it will be presumed that the objection was made by the adverse party, it being certified by the officer that such party attended at the taking of the deposition. The word "attended," as used in the statute prescribing the form of certificate to be annexed to a deposition, means some thing more than mere personal presence; it signifies participation in the examination of the witness.	Should the certificate stating the non-attendance of a party at the taking of the deposition be annexed to the certificate of the taking?	032528.docx	LEGALEASE-00142053-LEGALEASE-00142054
Doe v. Roe, 24 Ga. 384	307A+74	Interrogatories are not necessarily vitiated by the fact that the case stated at the head of the answers is not the same as the case on trial.	Are interrogatories not necessarily vitiated by the fact that the case stated at the head of the answers is not the same as the case on trial?	032552.docx	LEGALEASE-00141712-LEGALEASE-00141713

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Ft. Worth & D.C. Ry. Co. v. Walker, 48 Tex. Civ. App. 86	307A+74	The return on a deposition envelope serves the purpose only to preserve the purity of the return of the deposition, and is a matter properly for the court, and not for the jury, as evidence.	Does return on a deposition envelope serve the purpose to preserve the purity of the return?	032570.docx	LEGALEASE-00141698- LEGALEASE-00141699
Jenkins v. Tobin, 31 Ark. 306	307A+74	Where depositions are taken before a justice of the peace in another state, a certificate of authentication of his official character should accompany the deposition.	Is a certificate of authentication required from a justice of the peace of a state to take a deposition of another state?	032607.docx	LEGALEASE-00141328- LEGALEASE-00141329
Dawson Ins. v. Quantum Capital Network, 923 So. 2d 1194	302+85(4)	Untimely motion to dismiss for forum non conveniens was not a "pleading" and, therefore, was not a "response" for purposes of rule permitting extension of period within which to respond to the complaint. West's F.S.A. RCP Rules 1.090(b), 1.100(a).	"Is an untimely motion to dismiss for forum non conveniens not a ""pleading""?"	033464.docx	LEGALEASE-00140931- LEGALEASE-00140932
Gay v. Kendig, 2 Rob. (LA) 472	307A+726	To obtain a third continuance on the ground of the absence of the same witness, the materiality of the testimony must be shown, and such extraordinary diligence as to satisfy the court that it was absolutely impossible to procure the evidence.	Can the materiality of testimony be shown to obtain a third continuance due to absence of same witness?	033487.docx	LEGALEASE-00141640- LEGALEASE-00141644
In re Custom Contractors, 439 B.R. 544	371+2005	Doctrine of intergovernmental tax immunity bars only those taxes that are imposed directly on one sovereign by the other or that discriminate against a sovereign or those with whom it deals.	What does the doctrine of intergovernmental tax immunity bar?	045432.docx	LEGALEASE-00141014- LEGALEASE-00141016
Callaway v. City of Overland Park, 211 Kan. 646	371+2060	An "ad valorem tax" is a tax imposed on the basis of the value of the article or thing taxed.	"Is an ""ad valorem tax"" a tax imposed on the basis of the value of the article or thing taxed?"	Taxation - Memo # 688 - C - CK.docx	ROSS-003302334-ROSS- 003302336
Summit Claims Mgmt. v. Lawyers Exp. Trucking, 913 So. 2d 1182	413+2	Workers' compensation is a branch of law which is entirely statutory in origin.	Is workers compensation a branch of law which is entirely statutory in origin?	048122.docx	LEGALEASE-00141352- LEGALEASE-00141353
First Allmerica Fin. Life Ins. Co. v. Minnesota Life Ins. Co, 188 F. Supp. 2d 101	25T+145	Under Minnesota contract law, arbitration clause of asset acquisition agreement requiring binding arbitration for any dispute with respect to operation of acquisition agreement applied only to disputes as to operation of agreement, and not to disputes concerning interpretation of agreement; separate interpretation provision of agreement stated that parties could pursue judicial remedies in event of dispute with respect to interpretation of agreement, and if arbitration clause were deemed to apply to disputes concerning both operation and interpretation of agreement, interpretation provision would be rendered meaningless.	Does the omission of any reference to interpretation of the agreement support the limited application of the arbitration clause?	007497.docx	LEGALEASE-00143157- LEGALEASE-00143158
United States v. Apple, 927 F. Supp. 1119	63+1(2)	Bribery statute prohibiting attempts to influence state governmental agency receiving federal funds in connection with any business or transaction of agency involving "anything of value of \$5,000 or more" did not require government to show that "thing" that held value of over \$5,000 held that value for Indiana Department of Environmental Management (IDEM), whose investigator was allegedly bribed; all else being equal, showing that "thing" held value for defendant could suffice, as well as showing that defendant's bribe did cost IDEM over \$5,000 or otherwise held value for IDEM. 18 U.S.C.A. S 666(a)(2).	"In ruling on the thing- of-value element, does the statute require either the gain to the defendant or the loss to the victim to be \$5,000 or more, or is it sufficient if the overall transaction or target of the bribe is valued at \$5,000 or more?"	011578.docx	LEGALEASE-00142614- LEGALEASE-00142615

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Madeoy, 912 F.2d 1486	63+13	Whether individual is public official within meaning of bribery statute is question of law. 18 U.S.C.A. S 201(a)(1).	"In a bribery case, who should decide whether an individual is a public official?"	012181.docx	LEGALEASE-00142433-LEGALEASE-00142434
United States v. Labovitz, 251 F.2d 393	63+1(1)	Under statute making it a crime to offer money to any person acting for United States with intent to influence his decision or action on any matter before him in his official capacity or to induce him to do or omit to do any act in violation of his lawful duty, either an intention to influence official behavior or an intention to induce unlawful action will supply required culpability. 18 U.S.C.A. S 201.	"According to the face of the statute, when will the culpability be satisfied for the offense of bribery?"	012194.docx	LEGALEASE-00142465-LEGALEASE-00142466
Heckman v. Williamson Cty., 369 S.W.3d 137	106+247(7)	Though ordinarily lacking jurisdiction over an appeal from an interlocutory order, the Supreme Court had appellate jurisdiction, because on a conflict with its prior decisions, over decision of Court of Appeals that held on an interlocutory appeal that because no named plaintiff in putative class action had standing on all of class's claims, no named plaintiff had standing at all; Supreme Court had previously held that a named plaintiff's lack of standing to bring some, but not all, of his claims just deprived trial court of jurisdiction over those discrete claims. V.T.C.A., Government Code S 22.225(b).	"If the plaintiff lacks standing to bring all of his claims, must the court dismiss the whole action for want of jurisdiction?"	Pretrial Procedure - Memo # 5717 - C - KG.docx	LEGALEASE-00032515-LEGALEASE-00032516
Orr v. Calicott, 2009 Ark. App. 857	307A+554	A dismissal for improper venue does not go to the merits of whether the plaintiff can recover; all that has been determined is that the plaintiff brought suit in the wrong county.	Does a dismissal for improper venue does not go to the merits of whether the plaintiff can recover?	033427.docx	LEGALEASE-00142768-LEGALEASE-00142769
State ex rel. Title Loan Co. v. Vincent, 239 S.W.3d 136	307A+684	Quantum of proof necessary for a circuit court to dismiss an action when it appears that the circuit court lacks subject-matter jurisdiction is not high; it must appear by a preponderance of the evidence that the circuit court is without jurisdiction. V.A.M.R. 55.27(g)(3).	Should a motion to dismiss be granted where it appears that the circuit court lacks subject matter jurisdiction?	Pretrial Procedure - Memo # 6062 - C - AP.docx	LEGALEASE-00032624-LEGALEASE-00032625
In re Paul's Estate, 303 Pa. 330	371+2005	Question of jurisdiction of state to tax cannot turn on theories or fictions.	Can questions on jurisdiction of state to tax turn on theories or fictions?	Pretrial Procedure - Memo # 6231 - C - CK.docx	ROSS-003329609-ROSS-003329610
Maher v. Urman, 211 Ariz. 543	30+3230	Court of Appeals reviews a trial court's grant or denial of relief from dismissal of complaint for untimely service under savings statute for an abuse of discretion, and court will not disturb the exercise of the trial court's discretion if it is supported by any reasonable evidence. A.R.S. S 12-504.	Will a dismissal for untimely service be reviewed upon an abuse-of-discretion standard?	033803.docx	LEGALEASE-00142322-LEGALEASE-00142323
Hamilton v. Morris Res., Ltd., 225 S.W.3d 336	307A+746	The exclusion of an exhibit not listed in a pretrial order is not an impermissible sanction. Vernon's Ann.Texas Rules Civ.Proc., Rule 166(a).	Is the exclusion of an exhibit not listed in a pretrial order not an impermissible sanction?	033900.docx	LEGALEASE-00142290-LEGALEASE-00142291
Rucker v. Taylor, 828 N.W.2d 595	307A+560	Good cause for failure to timely accomplish service of process requires an examination of all of the surrounding facts to determine if they reveal understandable mitigating circumstances, for purposes of a motion to dismiss. I.C.A. Rule 1.302(5).	"Is a court permitted to consider facts outside the pleadings, when the grounds for motion to dismiss are based on alleged failure to provide timely service?"	033948.docx	LEGALEASE-00142664-LEGALEASE-00142665
Berger v. United States, 295 U.S. 78	91+293	Variance is not "material" where indictment charges a conspiracy involving several persons, and the proof establishes conspiracy against only some of them.	Is a variance material when the indictment and proof correspond?	Sex Offence - Memo 77 - RK.docx	LEGALEASE-00033054-LEGALEASE-00033055

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People v. Adams, 19 Cal. App. 4th 412	352H+184	Combination of sperm in rectum plus injuries is circumstantial evidence from which penetration by penis may be inferred for purposes of sodomy statute. West's Ann.Cal.Penal Code S 286(a).	Can penetration be proven by circumstantial evidence?	Sex Offence - Memo 87 - RK.docx	LEGALEASE-00033074-LEGALEASE-00033075
Campbell v. State, 125 So. 3d 46	211+1724	The State bears the burden of proving a defendant's age as an affirmative fact in a prosecution for fondling a minor over whom defendant held a position of trust or authority. West's A.M.C. S 97-5-23(2).	Does the State bear the burden of proving a defendants age?	043109.docx	LEGALEASE-00143468-LEGALEASE-00143469
Pourier v. Bd. of Cty. Comm'rs of Shannon Cty., 83 S.D. 235	371+2005	Taxation of Indians by federal government does not impliedly authorize taxation by the state.	Does the taxation of Indians by federal government impliedly authorize taxation by the state?	045291.docx	LEGALEASE-00142820-LEGALEASE-00142821
Commonwealth Edison Co. v. Montana, 453 U.S. 609	371+2005	States have considerable latitude in imposing general revenue taxes.	Do states have considerable latitude in imposing general revenue taxes?	Taxation - Memo # 492 - C - NS.docx	ROSS-003315784-ROSS-003315785
United States v. City of Roanoke, 258 F. Supp. 415	371+2005	Waiver of immunity from taxation must not only be express but it must also be strictly construed.	Should the waiver of immunity from taxation be express and strictly construed?	045322.docx	LEGALEASE-00142581-LEGALEASE-00142582
Collier Cty. v. State, 733 So. 2d 1012	371+2005	Power of state and local governments to levy taxes is governed by the Constitution. West's F.S.A. Const. Art. 7, S 1(a).	Is the power of state and local governments to levy taxes governed by the Constitution?	Taxation - Memo # 501 - C - SKG.docx	ROSS-003304970-ROSS-003304971
Cont'l Motors Corp. v. Muskegon Twp., 376 Mich. 170	371+3249	A tax upon possessory rights is an "excise tax" and not an "ad valorem property tax".	"Is tax upon possessory rights an ""excise tax"" and not an ""ad valorem property tax""?"	Taxation - Memo # 646 - C - SS.docx	ROSS-003303578-ROSS-003303579
Collector of Taxes of City of Boston v. Revere Bldg., 276 Mass. 576	371+2060	"Tax" on realty, in its nature, is not "debt", but monetary burden for support of government laid on owner and secured by lien on realty. M.G.L.A. c. 60 S 35.	"Is a ""tax"" on realty a ""debt""?"	045635.docx	LEGALEASE-00142794-LEGALEASE-00142795
Flynn v. City & Cty. of San Francisco, 18 Cal. 2d 210	371+2060	Tax levied by reason of ownership of property is a "property tax" rather than "occupation tax".	"Is a tax levied by reason of ownership of property a ""property tax"" rather than ""occupation tax""?"	045637.docx	LEGALEASE-00142798-LEGALEASE-00142799
Ortho Pharm. Corp. v. Amgen, 882 F.2d 806	25T+156	In regard to district court's decision as to request for injunctive relief in arbitrable dispute, if existing status quo is currently causing one of parties irreparable injury and thereby threatens to nullify arbitration process, then it is necessary to alter situation to prevent injury. 9 U.S.C.A. S 3.	Is the relief granted by the court when there is an arbitration process limited to restoring the parties precisely to their pre-litigation position?	Alternative Dispute Resolution - Memo 682 - RK.docx	ROSS-003288657-ROSS-003288658
Oil, Chem. & Atomic Workers' Int'l Union, Local 4-447 v. Chevron Chem. Co., 815 F.2d 338	231H+1549(6)	In view of the fact that there was legitimate dispute as to union's compliance with procedural time requirements for filing grievance, question of timeliness of grievance did not fit within rare group of cases where court could decide issue of procedural arbitrability if it could confidently be said not only that claim was strictly procedural, but that claim could operate to bar arbitration altogether, and thus procedural question involving timeliness of grievance was properly decided by arbitrator.	Is the question of timeliness of the request for arbitration considered as a procedural arbitrability?	007690.docx	LEGALEASE-00144793-LEGALEASE-00144794

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United States v. Bishton, 463 F.2d 887	63+1(1)	Under statute prohibiting receipt of money "for or because of any official act performed or to be performed," prosecution is not limited to receiving money for actions which are currently or may in the future be pending before a public official, as opposed to acts already completed; and, as so construed, statute is not unconstitutionally vague. 18 U.S.C.A. S 201(f, g).	Can an official accept a bribe for acts already performed?	011418.docx	LEGALEASE-00143973- LEGALEASE-00143974
People v. Gaio, 81 Cal. App. 4th 919	63+1(1)	Bribery involves a payment designed to alter the outcome of any matter that could conceivably come before the official, and a large number of such matters may provide alternative predicates for the offense. West's Ann.Cal.Penal Code SS 67.5, 68.	What type of payments does bribery involve or prohibit?	012196.docx	LEGALEASE-00143635- LEGALEASE-00143636
People v. Zayas, 89 A.D.3d 610	67+10	To obtain burglary in the third degree conviction against defendant, who had entered a coffee shop, jumped over a counter into a nonpublic area, tried unsuccessfully to open a cash register, and was promptly arrested, the People were not required to prove that defendant entered the shop itself with larcenous intent, since defendant's entry into the building only became unlawful at the moment when defendant crossed from the public area to the nonpublic area. McKinney's Penal Law S 140.00(5).	Does theft in a nonpublic area constitute a burglary?	012872.docx	LEGALEASE-00144841- LEGALEASE-00144844
People v. Lymore, 25 Ill. 2d 305	67+2	"Burglary" is entry of building with felonious intent, and when such entry and intent are shown, crime is complete and further allegation or proof that specific items were taken is not essential.	Does burglary require specific items to be taken?	012876.docx	LEGALEASE-00144845- LEGALEASE-00144848
Holcomb v. State, 445 S.W.3d 767	67+19	Indictment charging burglary of a habitation was fundamentally defective for failing to allege culpable mental state. V.T.C.A., Penal Code SS 6.02, 6.02(a, b), 30.02(a)(1, 3).	Does burglary require a culpable mental state?	Burglary - Memo 220 - SB.docx	ROSS-003304471-ROSS- 003304474
Glenn v. State, 659 S.W.2d 438	67+46(2)	Omission of essential element of culpable mental state from jury charge on burglary constituted fundamental error requiring reversal. V.T.C.A., Penal Code SS 6.02(b, c), 30.02(a)(3).	Does burglary require a culpable mental state?	012890.docx	LEGALEASE-00144857- LEGALEASE-00144860
In re WRT Energy Corp., 202 B.R. 579	260+47	Under Louisiana law, oil and gas are not owned by the landowner or any other person until reduced to possession.	Are oil and gas not owned until reduced to possession?	Mines and Minerals - Memo #188 - C - CSS.docx	LEGALEASE-00033767- LEGALEASE-00033768
Thompson v. Haile, 12 Tex. 139	307A+74	Where an officer taking a deposition does not certify that it was signed by the witness, it is not admissible in evidence.	"Where an officer taking a deposition does not certify that it was signed by the witness, is it not admissible in evidence?"	032691.docx	LEGALEASE-00144171- LEGALEASE-00144172
Hipp v. Huchett, 4 Tex. 20	307A+726	A third application for continuance is addressed to the sound discretion of the trial court.	Can a third application for continuance be addressed to the sound discretion of the trial court?	033032.docx	LEGALEASE-00143694- LEGALEASE-00143695
Hyde v. Benson, 6 Ark. 396	79+6	An authentication of the official character of a judge, before whom depositions were taken, by a deputy clerk, not disclosing the name of his principal, is insufficient.	"According to the requisitions of the statute, is it essential to authenticate the official character of the officer before whom depositions were taken without which it would be consequently rejected by the court??"	Pretrial Procedure - Memo # 5764 - C - NC.docx	ROSS-003291348-ROSS- 003291349
Foster v. Foster, 149 S.W.3d 575	307A+74	A deposition that has been taken and sealed up cannot be opened at the instance of the witness, in the absence of the opposite party, for the correction of an error. Where such correction becomes necessary, if should be done by appending an affidavit, explaining the circumstances.	Can a deposition be opened and amended in the absence of the opposite side?	Pretrial Procedure - Memo # 5778 - C - NE.docx	ROSS-003289655-ROSS- 003289656

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Hood's Gardens v. Young, 976 N.E.2d 80	413+2084	Exclusivity provisions of the Workers' Compensation Act did not deprive trial court subject matter jurisdiction to consider declaratory judgment action concerning whether contract between customer and tree removal company exposed customer to workers' compensation liability for injury to subcontractor hired by tree removal company; specific issue did not pertain to the "rights and remedies granted to an employee" that were the subject of the Act's exclusivity provision. West's A.I.C. 22-3-1-2.	Does a motion to dismiss for lack of subject matter jurisdiction present a threshold question concerning the trial court's power to act?	Pretrial Procedure - Memo # 6774 - C - KG.docx	ROSS-003316837
All S. Mini Storage No. 2, Ltd. v. Woodcon Const. Servs., 205 Ga. App. 393	307A+690	Trial court erred in dismissing defendants' counterclaim with prejudice for failure to appear at scheduled pretrial conference; although trial court has discretion to dismiss complaint or counterclaim for failure to appear, such dismissal does not operate as adjudication on merits, and thus dismissal must be without prejudice. O.C.G.A. S 9-11-41(b)(1).	Does a court have the discretion to dismiss the complaint in the event of a plaintiff's failure to appear?	034481.docx	LEGALEASE-00143953- LEGALEASE-00143954
Bosque v. Rivera, 135 So. 3d 399	307A+563	Although District Court of Appeal reviews a dismissal for fraud on the court under an abuse of discretion standard, that standard of review is somewhat narrowed to take into account that the dismissal must be established by clear and convincing evidence.	"To obtain a dismissal for fraud on the court, should the movant prove his case by clear and convincing evidence?"	Pretrial Procedure - Memo # 6839 - C - SK.docx	LEGALEASE-00034525- LEGALEASE-00034526
Chira v. Glob. Med. Review, 160 Misc. 2d 368	307A+554	Improper venue is not a jurisdictional defect requiring dismissal of the action.	Is improper venue not a jurisdictional defect requiring dismissal of an action?	034608.docx	LEGALEASE-00144091- LEGALEASE-00144092
M.L. v. Eskenazi Health / Midtown Mental Health CMHC, 80 N.E.3d 219	13+6	When a court is unable to render effective relief to a party, the case is deemed moot and usually dismissed.	Should moot cases be dismissed?	Pretrial Procedure - Memo # 7347 - C - SK.docx	ROSS-003302124-ROSS- 003302125
Sadler v. Creekmur, 354 Ill. App. 3d 1029	307A+552	An action will be dismissed as moot once the plaintiff has secured what was originally sought.	Will an action be dismissed as moot once the plaintiff has secured what was originally sought?	035409.docx	LEGALEASE-00144997- LEGALEASE-00144998
State ex rel. Seaboard Air Line R. Co. v. Gay, 160 Fla. 445	371+2445	Obligation to pay taxes is purely statutory, and taxes can be levied, assessed, and collected only in express method pointed out by statute, and statute may not be construed to impose a tax unless its terms definitely so provide.	Is payment of taxes a statutory liability on the owner of property?	045688.docx	LEGALEASE-00144474- LEGALEASE-00144475
Harsha v. City of Detroit, 261 Mich. 586	371+2005	Generally, subject to constitutional restrictions, power of taxation is limited only by will of state as expressed in legislation.	Is the power of taxation limited by the will of state as expressed in legislation?	045749.docx	LEGALEASE-00144389- LEGALEASE-00144390
In re Frick's Estate, 277 Pa. 242	371+2005	A tax can only be imposed by the state when it has either jurisdiction over the person or over his property.	Can a tax be imposed by the state only when it has either jurisdiction over the person or over his property?	Taxation - Memo # 774 - C - VA.docx	LEGALEASE-00034726- LEGALEASE-00034728
Davis Plumbing Co. v. Burns, 967 So. 2d 94	413+2	An action brought under the Alabama workers' compensation laws is purely statutory.	Is an action brought under the workers compensation laws purely statutory?	048074.docx	LEGALEASE-00144147- LEGALEASE-00144148
Rankin v. Allstate Ins. Co., 336 F.3d 8	25T+182(1)	The components of waiver of an arbitration clause by inaction are undue delay and a modicum of prejudice to the other side.	What are the components of waiver of an arbitration clause?	007749.docx	LEGALEASE-00145077- LEGALEASE-00145078
Sheridan v. Superior Court In & For Pinal Cty., 91 Ariz. 211	110+576(1)	Proceedings against accused brought in the superior court should have been dismissed upon accused's application, even though he was arrested under warrant issued by a superior court judge acting as magistrate, where no information was filed against accused within 30 days after he was held to answer for an offense, and no good cause for not dismissing the prosecution was shown by affidavit. 17 A.R.S. Rules of Criminal Procedure, rule 236.	"Does a justice of the peace, when exercising the powers of a magistrate, have equal authority with the justices of the Supreme Court and judges of the superior courts when acting in a similar capacity?"	011146.docx	LEGALEASE-00146100- LEGALEASE-00146101

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Sorrow, 732 F.2d 176	164T+24(5)	Compulsion is not element in Hobbs Act prosecution of public official. 18 U.S.C.A. S 1951.	Is compulsion an element in a Hobbs Act prosecution of a public official?	Bribery - Memo #855 - C - LB.docx	ROSS-003290967-ROSS-003290968
United States v. Mosberg, 866 F. Supp. 2d 275	63+6(1)	Indictment of defendant for honest services fraud sufficiently alleged quid pro quo bribery, where the indictment alleged the elements of honest services fraud, and apprised defendant of the sort of bribery scheme that had to defend against-favorable real estate deals in exchange for expediting or favorably resolving Planning Board matters and Township litigation. Fed.Rules Cr.Proc.Rule 7(c)(1), 18 U.S.C.A.; 18 U.S.C.A. S 1341.	"For purpose of jury instructions, can the word in return for sufficiently communicate the quid pro quo element of bribery?"	012305.docx	LEGALEASE-00145635-LEGALEASE-00145636
People v. Ramirez, 112 Cal. App. 507	67+3	When burglary is predicated on an unlawful entry, a defendant must have had the intent to commit a crime other than criminal trespass at the time of entry; intent may be inferred from the circumstances of the entry. McKinney's Penal Law S 140.25(2).	Does burglary require proof of a crime other than trespass?	012864.docx	LEGALEASE-00145523-LEGALEASE-00145526
Mineral Policy Ctr. v. Norton, 292 F. Supp. 2d 30	260+92.5(1)	Provision of FLPMA requiring Bureau of Land Management (BLM) to prevent "undue or unnecessary degradation" of public lands required prevention of otherwise permissible mining operations that, although necessary for mining, would unduly harm or degrade public land. Federal Land Policy and Management Act of 1976, S 302(b), 43 U.S.C.A. S 1732(b).	Should the Bureau of Land Management (BLM) prevent undue degradation?	Mines and Minerals - Memo #232 - C - EBn++.docx	ROSS-003291099-ROSS-003291100
Shea v. Nilima, 133 F. 209	260+12	The fact that a mining claim is located by an alien does not render the location illegal or void, but, at most, it is only voidable at the instance of the government; and a subsequent declaration of intention to become a citizen by a locator, or one having an interest in the claim, prior to the inception of any adverse rights, relates back to the date of the location or acquisition of the alien's interest, and validates the transaction.	Are the location of a mining claim by an alien and all the rights following from such location voidable or void?	021505.docx	LEGALEASE-00145056-LEGALEASE-00145057
Beckman v. Farmer, 579 A.2d 618	289+950	Winding up can be contemporaneous with dissolution when partners expressly or impliedly agree to transfer their shares of business to continuing partner; transfer is for sum which may include outgoing partner's percentage of profits from unfinished business earned before date of dissolution, and take form of agreed-upon accounting concurrent with dissolution.	Can winding up and settling of partnership affairs be contemporaneous with dissolution?	022472.docx	LEGALEASE-00146376-LEGALEASE-00146377
Bedford v. White, 106 Colo. 439	296+2	A pension having no reasonable relation to public good is void as a mere "private grant", but a pension serving a present public purpose is not void as a mere private grant, even though, as an incident to the accomplishment of the public purpose, the recipients thereof may be personally benefited.	Does a grant of pension serve a public good or public purpose?	022808.docx	LEGALEASE-00145368-LEGALEASE-00145369
Hefferman v. Bass, 467 F.3d 596	170A+673	The point of the notice pleading standard under the federal rules of procedure is that the plaintiff is not required to plead either facts or legal theories. Fed.Rules Civ.Proc.Rule 8(a), 28 U.S.C.A.	Does notice pleading require pleading of facts?	023537.docx	LEGALEASE-00145450-LEGALEASE-00145451
M Series Rebuild v. Town of Mount Pleasant, 222 N.C. App. 59	307A+554	A motion to dismiss based on sovereign immunity is a jurisdictional issue. Rules Civ.Proc., Rule 12(b)(1, 2), West's N.C.G.S.A. S 1A-1.	Is a motion to dismiss based on sovereign immunity a jurisdictional issue?	Pretrial Procedure - Memo # 5859 - C - CK.docx	ROSS-003302444-ROSS-003302445

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Haddix v. Am. Zurich Ins. Co., 253 S.W.3d 339	307A+554	If the pleadings affirmatively negate the existence of jurisdiction, dismissal is appropriate.	"If the pleadings affirmatively negate the existence of jurisdiction, is dismissal appropriate?"	Pretrial Procedure - Memo # 5876 - C - VP.docx	ROSS-003288109-ROSS-003288110
Martinez v. Bank of New York Mellon, 198 So. 3d 911	266+1793	Trial court's finding that mortgagor committed fraud on the court during testimony at foreclosure trial was not support by sufficient evidence, and therefore, striking of mortgagor's pleadings and entering default judgment against her during middle of trial was not warranted; trial court did not allow parties to conclude presentation of their respective cases, and did not make factual findings as to mortgagor's alleged lies and perjury in which she claimed that she never signed mortgage nor wrote letter stating that she had moved out of premises.	"While a trial court has the inherent power to impose sanctions on a party who destroys evidence or perpetrates a fraud on the court, should that power be exercised with great restraint?"	034060.docx	LEGALEASE-00145166-LEGALEASE-00145167
Tomlinson-McKenzie v. Prince, 718 So. 2d 394	307A+746	Excluding the testimony of a witness is a harsh remedy which should be invoked sparingly.	Is excluding the testimony of a witness a harsh remedy which should be sparingly invoked?	034090.docx	LEGALEASE-00145286-LEGALEASE-00145287
Uthe v. Baker, 629 N.W.2d 121	307A+560	District court must dismiss an action where service of process is insufficient.	"Should a district court dismiss the action, absent proper service of process or a waiver thereof?"	034110.docx	LEGALEASE-00145340-LEGALEASE-00145341
Flores v. Cooper Tire & Rubber Co., 218 Ariz. 52	307A+552	The decision to dismiss a case based on mootness is largely discretionary.	"Is the decision to dismiss a case based on mootness, largely discretionary?"	Pretrial Procedure - Memo # 6672 - C - ES.docx	ROSS-003304891-ROSS-003304892
Wilder v. Wilder, 146 N.C. App. 574	307A+581	Three factors that the trial judge must address before dismissing claim for failure to prosecute are: (1) whether the plaintiff acted in a manner which deliberately or unreasonably delayed the matter; (2) the amount of prejudice, if any, to the defendant; and (3) the reason, if one exists, that sanctions short of dismissal would not suffice. Rules Civ.Proc., Rule 41(b), G.S. S 1A-1.	"Under the rule of procedure governing dismissals of actions, can a claim be dismissed for one of three reasons?"	Pretrial Procedure - Memo # 6682 - C - SS.docx	ROSS-003288430-ROSS-003288431
Davis v. DND/Fidoreo, 317 N.J. Super. 92	307A+560	Dismissal of the action is the appropriate relief when there is a claim of improper service.	Is dismissal of the action the appropriate relief when there is a claim of improper service?	034670.docx	LEGALEASE-00145407-LEGALEASE-00145408
Christianson By & Through Christianson v. Educ. Serv. Unit No. 16, 243 Neb. 553	307A+563	Courts have inherent power to dismiss action for disobedience of court order.	Do courts have the inherent power to dismiss action for disobedience of a court order?	034824.docx	LEGALEASE-00145993-LEGALEASE-00145994
Kubel v. San Marco Floor & Wall, 967 So. 2d 1063	307A+563	Circuit court has the inherent authority to dismiss a complaint for fraud.	Does a circuit court have the inherent authority to dismiss a complaint for fraud?	10820.docx	LEGALEASE-00094105-LEGALEASE-00094106
Fablok Mills v. Cocker Mach. & Foundry Co., 125 N.J. Super. 251	307A+563	Where noncompliance with rules can be remedied by other measures, dismissal ordinarily will not be required. R. 4:23-5.	"Where noncompliance with rules can be remedied by other measures, will dismissal ordinarily not be required?"	035155.docx	LEGALEASE-00145748-LEGALEASE-00145749

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Meadow Fresh Farms v. Utah State Univ. Dep't of Agric. & Applied Sci., 813 P.2d 1216	307A+596	Corporation failed to establish excusable neglect for its failure to prosecute sufficient to demonstrate that it was abuse of discretion for trial court to deny corporation's motion to set aside judgment dismissing action for failure to prosecute; while corporation claimed that lack of communication with counsel resulted in confusion as to counsel's continued representation which resulted in counsel's nonappearance at order to show cause hearing, action based on same facts had previously been dismissed for failure to prosecute, and corporation offered no excuse for counsel's neglect in failing to attend hearing. Rules Civ.Proc., Rule 60(b).	Can a trial court dismiss an action pursuant to rule permitting dismissal for failure to prosecute?	035167.docx	LEGALEASE-00145808-LEGALEASE-00145809
Bert Cattle Co. v. Warren, 238 Neb. 638	307A+563	Courts have the inherent power to dismiss an action for disobedience of a court order.	Do courts have inherent power to dismiss action for disobedience of a court order?	Pretrial Procedure - Memo # 7214 - C - SU.docx	LEGALEASE-00035875-LEGALEASE-00035876
Brister v. Manville Forest Prod., 749 So. 2d 881	13+70	Notice of deposition, served on adverse party, was a step in the prosecution, for purposes of abandonment, even though notice was not filed in the record. LSA-C.C.P. art. 561.	"Is any formal discovery a ""step"" in the prosecution that can preclude dismissal for abandonment?"	035192.docx	LEGALEASE-00145752-LEGALEASE-00145753
Cutler v. Nw. Suburban Cmty. Hosp., 405 Ill. App. 3d 1052	307A+46	Trial court in medical malpractice action should have granted plaintiff's request to be held in contempt for failing to produce doctor, who authored physician's report, for a deposition rather than dismissing the plaintiff's complaint with prejudice; when the plaintiff filed his complaint, there was confusion over whether statute required the disclosure of the reviewing health professional's identity, and a contempt proceeding was the appropriate method of testing the correctness of discovery order. 735 ILCS 5/2-622 (2004 Bar Ed.)	Does a trial court have the inherent authority to dismiss a cause of action with prejudice for failure to comply with court orders?	Pretrial Procedure - Memo # 7283 - C - RY.docx	ROSS-003288642-ROSS-003288643
Brown v. Diaz, 184 Ga. App. 409	307A+552	Dismissal of frivolous action is appropriate to prevent abuse of process.	Is dismissal of frivolous action appropriate to prevent abuse of process?	Pretrial Procedure - Memo # 7285 - C - SHB.docx	LEGALEASE-00036000-LEGALEASE-00036001
Duncan Pub. v. City of Chicago, 304 Ill. App. 3d 778	13+6	A claim is "moot" when no actual controversy exists or events occur which make it impossible for a court to grant effectual relief.	Will actions be dismissed as moot once plaintiffs have secured what was originally sought?	Pretrial Procedure - Memo # 7309 - C - NS.docx	LEGALEASE-00036024-LEGALEASE-00036025
Sadler v. Creekmur, 354 Ill. App. 3d 1029	307A+552	An action will be dismissed as moot once the plaintiff has secured what was originally sought.	Will actions be dismissed as moot once plaintiffs have secured what was originally sought?	035344.docx	LEGALEASE-00145814-LEGALEASE-00145815
Johnson v. Allstate Ins. Co., 410 So. 2d 978	93+20	A party may not ignore a valid order of court except at its peril.	Does a party ignore a valid order of court at its own peril?	035350.docx	LEGALEASE-00145877-LEGALEASE-00145878
Methodist Hosps. of Dallas v. Texas Workers' Comp. Comm'n, 874 S.W.2d 144	307A+552	When cause becomes moot only proper judgment is one dismissing cause.	"When a cause becomes moot, is the only proper judgment one which dismisses the cause?"	035365.docx	LEGALEASE-00146098-LEGALEASE-00146099
Ronwin v. Piper, Jaffray & Hopwood, 113 Ill. App. 3d 687	307A+552	A court has inherent power to protect itself from frivolous and vexatious litigation.	Does a court have inherent power to protect itself from frivolous and vexatious litigation?	Pretrial Procedure - Memo # 7344 - C - SHB.docx	ROSS-003290037-ROSS-003290038

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Howard v. Risch, 959 So. 2d 308	307A+226	Even if trial court had an evidentiary basis on which to conclude that driver intentionally misrepresented his medical history in his deposition, a sanction of dismissal on the basis that driver perpetrated a fraud upon the court was not warranted in driver's personal injury action against two other motorists; driver revealed three minor accidents or injuries in his deposition, and there was no evidentiary support that the medical matters driver failed to disclose made any difference to the case.	"For the trial court to properly exercise its discretion to dismiss a claim for fraud on the court, should there be an evidentiary basis to dismiss the case?"	035477.docx	LEGALEASE-00146020- LEGALEASE-00146021
Port Auth. of Allegheny Cty. v. Div. 85, Amalgamated Transit Union, 34 Pa. Cmwlth. 71	307A+552	A recognized exception to the doctrine that a case will be dismissed if at any stage of the judicial process it is rendered moot is illustrated by cases in which technically moot issues are nevertheless decided on the merits because they are of a recurring nature, capable of repeatedly avoiding review, and involve issues of important public interest.	Will a case be dismissed if at any stage of the judicial process it is rendered moot?	Pretrial Procedure - Memo # 7403 - C - SJ.docx	ROSS-003290059-ROSS-003290060
Hill v. Roberts, 142 Tenn. 215	371+2005	No constitutional restriction upon a state's power to tax will be inferred.	Can any constitutional restriction upon a state's power to tax be inferred?	045805.docx	LEGALEASE-00145938- LEGALEASE-00145939
People ex rel. Stafford v. Travis, 231 N.Y. 339	371+2005	The authority of a state to lay a tax is dependent on jurisdiction of the subject of the tax, and so as far as it affects a nonresident doing business in the state its jurisdiction is over the business done by him in the state.	Is the authority of a state to lay a tax dependent on jurisdiction of the subject of the tax?	045859.docx	LEGALEASE-00146279- LEGALEASE-00146280
N. Carolina Chiropractic Ass'n v. Aetna Cas. & Sur. Co., 89 N.C. App. 1	413+2	Workers' Compensation Act does not take away common-law rights that are unrelated to employer-employee relationship. G.S. S 97-1 et seq.	Does the Act take away common law rights that are unrelated to the employer-employee relationship?	11472.docx	LEGALEASE-00094029- LEGALEASE-00094030
Carraway v. City of Alexandria, 693 So. 2d 314	307A+590.1	Filing of amended petition is "step" which precludes dismissal for abandonment, if amended petition is more than restatement of original petition. LSA-C.C.P. art. 561.	"Is filing of an amended petition a ""step"" which precludes dismissal for abandonment?"	Pretrial Procedure - Memo # 7908 - C - PC.docx	ROSS-003300292-ROSS-003300293
Edwards v. Hanger, 197 So. 3d 993	307A+581	No wrongful motive or intent is necessary to show willful conduct that warrants the dismissal of an action for failure to prosecute. Rules Civ.Proc., Rule 41(b).	Is a wrongful motive or intent necessary to show willful conduct?	Pretrial Procedure - Memo # 7604 - C - BP.docx	ROSS-003326786
Merchants Nat. Bank of Mobile v. Commonwealth Life Ins. Co., 32 Ala. App. 509	34+20.10(2)	Induction into the armed forces is completed upon acceptance by the government of the draftee.	Is induction into the armed forces completed upon acceptance by the government of the draftee?	Armed Services - Memo 311 - RK_57620.docx	ROSS-003283754
United States v. Hall, 424 F. Supp. 508	63+3	Both giver and taker of bribe may be charged as coconspirators to violate Travel Act. 18 U.S.C.A. S 1952.	Can giver and taker of bribe be charged as co-conspirators to violate Travel Act?	09947.docx	LEGALEASE-00095379- LEGALEASE-00095380
Com. v. Dowe, 315 Mass. 217	63+3	The words "executive officer", within statute relating to the request or acceptance by executive officer of a bribe, refers to an officer of the executive branch of the state government, and not to a municipal officer having executive duties. G.L.(Ter.Ed.) c. 268, S 8 (M.G.L.A.).	"To whom do the words ""executive officer"" refer to in regards to bribery of an executive officer?"	10776.docx	LEGALEASE-00094416- LEGALEASE-00094417

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People v. Elsey, 81 Cal. App. 4th 948	67+9(1)	Term "other building," within the meaning of the burglary statute, is intended to expand the definition of burglary to cover structures beyond those listed; it was not meant to bar multiple counts of burglary based on multiple entries into separate offices, apartments, or rooms, simply because they happen to be inside a larger structure. West's Ann.Cal.Penal Code S 459.	Can a room within a building be subject to burglary?	Burglary - Memo 245 - SB_57622.docx	ROSS-003292646-ROSS-003292648
Sassnett v. State, 838 So. 2d 650	110+1910	Defense counsel's failure to delineate the elements of burglary of a dwelling or pursue lesser offenses, including that of burglary of a structure, prejudiced defendant, as element of ineffective assistance, in prosecution for burglary of dwelling, where record showed defendant burglarized detached garage, nothing in record disclosed that it was enclosed by a fence, and burglary of detached garage not enclosed together with home by fence did not constitute burglary of dwelling under statute in effect at time. U.S.C.A. Const.Amend. 6.	Is burglary of a detached garage a burglary of a dwelling?	Burglary - Memo 254 - SB_57632.docx	ROSS-003321871-ROSS-003321875
In re Amber S., 33 Cal. App. 4th 185	67+4	"Building" under California's burglary statute is any structure that has walls on all sides and is covered by roof; "walls" can take various forms and need not reach roof, but they must act as significant barrier to entrance without cutting or breaking. West's Ann.Cal.Penal Code S 459.	Do building structures under burglary law require four walls and a roof?	013006.docx	LEGALEASE-00147872-LEGALEASE-00147875
Henderson v. C-K, 261 Or. 15	200+175	Obedience is required only to stop signs installed or authorized by public bodies or officials. ORS 483.138.	Is a person required to obey only stop signs installed by officials?	Highways -Memo 174-IS_57470.docx	ROSS-003291951-ROSS-003291952
Parker v. Standard Oil Co. of Kan., 250 S.W.2d 671	260+56	A mineral lease is the conveyance of a determinable fee interest in land.	Is a mineral lease the conveyance of a determinable fee interest in land?	Mines and Minerals - Memo #285 - C - CSS.docx	LEGALEASE-00036935-LEGALEASE-00036936
Morton v. Solambo Copper Mining Co., 26 Cal. 527	260+26	If a discoverer of a mineral lode locates the same in accordance with the mining customs of the district, by placing upon the lode a notice that he and certain others (giving their names) claim the same for themselves, and enters upon and works the same thereunder, such location and entry give such other parties a vested right as tenants in common in said lode, although they do not know that the location has been made in their names; and the discoverer cannot divest such rights of the others without their consent, by taking away the notice and putting another in its place, with other names in it.	Can a person locate a mining claim for others?	021576.docx	LEGALEASE-00147754-LEGALEASE-00147755
Rush v. French, 1 Ariz. 99	260+25	Failure of a mining locator to comply with the local miners' rules, under which the location was made, does not work a forfeiture, unless the rules themselves so provide.	Can a failure to comply with the local mining rules and customs work a forfeiture?	Mines and Minerals - Memo #296 - C - EB_57488.docx	ROSS-003296500-ROSS-003296501
Smith v. U.S. Shipping Bd. Emergency Fleet Corp., 2 F.2d 390	296+7	Soldiers' pensions being mere gratuities which may be withdrawn at will, Congress may impose such limitations as it deems desirable, as regards judicial review of administrator's decisions. 38 U.S.C.A. S 705.	Can congress impose limitations on the granting of pensions?	022844.docx	LEGALEASE-00147846-LEGALEASE-00147847

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U.S. v. Brown, 364 F.3d 1266	296+13	It is a violation of Rev.St.U.S. S 5485, 38 U.S.C.A. S 112, which forbids any agent or attorney or other person instrumental in prosecuting any claim for pension directly or indirectly to contract for, demand, receive, or retain any greater compensation for his services than \$25, to contract to render such services for more than \$25; to demand more than that sum for such services after rendering them without a contract; to retain more than that sum out of the check sent to the pensioner; or to receive more than that sum for such services in pursuance of any agreement, direct or indirect, express or implied, or of any legal or moral obligation; but it is not a violation of the section to receive more than \$25 for such services, wholly as a gratuity, and without demand.	Does receiving pension benefits from a pensioner as compensation violate pension laws?	022862.docx	LEGALEASE-00147954- LEGALEASE-00147955
Kissman v. Bendix Home Sys., 587 S.W.2d 675	302+72	A prayer for relief must be consistent with facts stated as basis for relief; accordingly, only relief consistent with theory of claim reflected in petition may be granted under a general prayer.	Should a prayer be consistent with the facts stated as a basis for relief?	Pleading - Memo 452 - RMM_57501.docx	ROSS-003283149-ROSS-003283150
Anderson v. Anderson, 196 N.W.2d 727	307A+563	Involuntary dismissal is drastic sanction which should be utilized only in extreme situations.	Is involuntary dismissal a drastic sanction which should be utilized only in extreme situations?	09622.docx	LEGALEASE-00095770- LEGALEASE-00095771
Harris Cty. v. Gambichler, 479 S.W.3d 514	307A+690	A dismissal for want of prosecution is not a determination on the merits, and therefore dismissal with prejudice in such circumstances is improper. Tex. R. Civ. P. 165a(1).	Is a dismissal for want of prosecution a determination on the merits?	035704.docx	LEGALEASE-00147247- LEGALEASE-00147248
Juengain v. Tervalon, 223 So. 3d 1174	307A+581	An action may be dismissed as abandoned under the abandonment statute only without prejudice. La. Code Civ. Proc. Ann. art. 561.	Can an action be dismissed as abandoned under the abandonment statute only without prejudice?	Pretrial Procedure - Memo # 7693 - C - SK.docx	ROSS-003286526-ROSS-003286527
Tillett Bros. Const. Co. v. Dep't of Transp., 210 Ga. App. 84	307A+590.1	It is not necessary for order to advance or resolve litigation matter for order to be "order" within meaning of statute pursuant to which action is subject to automatic dismissal when no written order is taken for period of five years. O.C.G.A. S 9-2-60(b).	Is it not necessary for an order to advance or resolve a litigation matter?	Pretrial Procedure - Memo # 7718 - C - NE.docx	ROSS-003300045-ROSS-003300046
Cotter v. Dias, 130 A.3d 164	307A+581	A mere delay is not enough to warrant a dismissal for lack of prosecution. Superior Court Rules Civ.Proc., Rule 41(b).	Is a mere delay enough to warrant a dismissal for lack of prosecution?	11204.docx	LEGALEASE-00094669- LEGALEASE-00094670
Clemons v. Nissan N. Am., 2013 IL App (4th) 120943	307A+561.1	A party moving for involuntary dismissal based on certain defects or defenses has the burden of proof on the motion and the concomitant burden of going forward. S.H.A. 735 ILCS 5/2-619(a).	Will a party moving for involuntary dismissal have the burden of proof on the motion?	036217.docx	LEGALEASE-00147531- LEGALEASE-00147532
U.S. ex rel. Barile v. Murff, 116 F. Supp. 163	361+1598	Legislation affecting aliens is not invalid merely because it is retrospective in operation. U.S.C.A.Const. art. 1, S 9; Amend. 5; Immigration and Nationality Act, S 241(a)(4), (b), 8 U.S.C.A. S 1251(a)(4), (b).	Is legislation affecting aliens invalid merely because it is retrospective in operation?	Aliens_Immigration and_12a3ljll0StcBk4cCNc oNaMBO56UY92Sy.docx	ROSS-000000282-ROSS-000000283
Katris v. Immigration & Naturalization Serv., 562 F.2d 866	24+459	Illegality of arrest of alien would not bar deportation proceedings or void deportation order based on alien's admission at deportation hearing of his illegal status in this country. Immigration and Nationality Act, SS 101 et seq., 106(a), 212(a)(20), 241(a)(1), 244(e), 264(e), 287(a)(2), 8 U.S.C.A. SS 1101 et seq., 1105a(a), 1182(a)(20), 1251(a)(1), 1254(e), 1304(e), 1357(a)(2).	Does a defect or irregularity in arrest of an alien invalidate a deportation proceeding?	Aliens_Immigration and_17kl2ugOH9r0QnuFj l8JHPI_UjgBp5weZ.docx	ROSS-000000284-ROSS-000000285

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
DeGroff v. MascoTech Forming Techs.-Fort Wayne, 179 F. Supp. 2d 896	25T+133(2)	Exceptions to general rule, under Indiana law, that party to contract is bound by provisions regardless of whether party read provisions, did not apply to employee who signed documents at time of acceptance for full-time employment requiring arbitration of disputes; employer's urging that she sign documents so that notice could be given to payroll department did not constitute trickery, and prospective employee had no relation of trust or confidence with employer justifying her signing of documents without reading them.	Do courts consider an arbitration agreement invalid if a party to the agreement argues lack of time to read the arbitration agreement before signing?	Alternative Dispute Resolution - Memo 753 - RK_58086.docx	ROSS-003282456-ROSS-003282458
Collins & Aikman Prod. Co. v. Bldg. Sys., 58 F.3d 16	25T+137	Arbitration clause which submitted to arbitration any claim or controversy arising out of or relating to the agreement was the paradigm of a broad clause.	What is the paradigm of a broad arbitration clause?	007866.docx	LEGALEASE-00148915-LEGALEASE-00148916
Nicholas v. KBR, 565 F.3d 904	25T+182(2)	Widow of former employee prejudiced former employer by bringing suit alleging that employer's failure to pay life insurance proceeds breached severance agreement, as required to support finding of waiver of agreement's arbitration clause; delay in asserting clause was substantial, i.e. 10 months, was unexplained, and came only after significant progress in case, including removal to federal court, unsuccessful motion to remand, filing of answer, discovery requests, depositions, and opposing party's beginning preparation of its summary judgment motion.	"Where a party fails to demand arbitration and engages in pretrial activity inconsistent with intent to arbitrate, can the party opposing a motion to compel arbitration show that its position has been prejudiced?"	007890.docx	LEGALEASE-00148951-LEGALEASE-00148953
United States v. Fallon, 407 F.2d 621	34+20.6(6)	Exemptions from military service for conscientious objectors and ministers of religion are matters of legislative grace. Universal Military Training and Service Act, S 1 et seq. as amended 50 U.S.C.A. App. S 451 et seq.; U.S.C.A.Const. art. 1, S 8.	Is ministerial exemption a matter of legislative grace?	008759.docx	LEGALEASE-00148820-LEGALEASE-00148821
United States v. La Favor, 96 F.2d 425	34+73(1)	The pursuit of vocational training is inconsistent with the claim of "permanent disability" within the contemplation of a war risk policy.	Is the pursuit of vocational training inconsistent with the claim of permanent disability?	008780.docx	LEGALEASE-00148840-LEGALEASE-00148841
Cady v. Shepard, 12 Wis. 639	83E+801	Where a promissory note is indorsed by the payee, and also by another party, the legal inference from the instrument itself, is that the payee is the first indorser.	Whether the payee is the first indorser?	010564.docx	LEGALEASE-00148695-LEGALEASE-00148696
Northwestern National Life Insurance Co. v. Laurel Federal Savings Bank, 979 F. Supp. 354	83E+452	"Forged endorsement" under Maryland Uniform Commercial Code (UCC) is one made without actual, implied, or apparent authority. Md.Code, Commercial Law S 1-201(43).	What is a forged endorsement?	Bills and Notes-Memo 474- PR.docx	LEGALEASE-00038158-LEGALEASE-00038159
United States v. Ollison, 555 F.3d 152	146+21	Plain language of statute prohibiting theft or bribery by agent of organization receiving federal funds does not distinguish between "high-level" and "low-level" employees. 18 U.S.C.A. S 666(a)(1), (d)(1).	Does the federal bribery statute distinguish between different types of employees?	012023.docx	LEGALEASE-00148147-LEGALEASE-00148148

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
U.S. v. Jackson, 904 F. Supp. 118	282+174(1)	In prosecution for corruptly endeavoring to influence and impede petit jurors, court properly instructed jury as to essential elements by instructing that, to find guilt, jury must find that defendant contacted specific jurors who had been selected to serve on panel from which petit jurors were to be selected in pending criminal action, that jurors must find that by such contact defendant endeavored to influence and impede such prospective jurors in discharge of their duties as members of the jury and that jury must find that defendant's actions were done corruptly. 18 U.S.C.A. S 1503.	Can a person be convicted for endeavoring to corruptly influence a petit juror even though the person being influenced was not yet selected or sworn?	012406.docx	LEGALEASE-00148538- LEGALEASE-00148539
United States v. Condon, 170 F.3d 687	110+392.32(7)	Criminal statute penalizing whoever gives, offers, or promises anything of value for or because of testimony does not require exclusion of evidence obtained through promise of immunity or lowered sentence, as statute creates neither private right of action nor rule of evidence and, in any event, statute is not violated by such conduct because forgoing criminal prosecution, or securing a lower sentence, is not a "thing of value" within meaning of statute. 18 U.S.C.A. S 201(c)(2).	Could payment of a debt to society by providing testimony be a different animal even as cancellation of a private debt is a thing of value in the statutory sense?	012407.docx	LEGALEASE-00148540- LEGALEASE-00148541
Hemi Grp. v. City of New York, N.Y., 559 U.S. 1	319H+62	Assuming that alleged violation of Jenkins Act by out-of-state online seller of cigarettes, in failing to file a report with the State listing the name, address, and quantity of cigarettes purchased from online seller by state residents, could constitute a predicate offense under the Racketeer Influenced and Corrupt Organizations Act (RICO), such violation was not proximate cause of city's alleged injury from loss of tax revenues based on failure of city residents to pay city's use tax for their cigarette purchases from online seller, as required for a RICO civil claim based on the plaintiff being injured in his business or property by reason of a RICO predicate offense, because the conduct directly causing the harm to city, i.e., cigarette purchasers' failure to pay use taxes to city, was distinct from the conduct giving rise to the alleged predicate acts of fraud, i.e., the online seller's failure to file Jenkins Act reports with the State. (Per Chief Justice Roberts, with three Justices concurring and one Justice concurring in part and concurring in the judgment.) Jenkins Act, S 1 et seq., 15 U.S.C.A. S 375 et seq.; 18 U.S.C.A. SS 1962(c), 1964(c); N.Y.McKinney's Tax Law S 471(2).	What is the compensable injury flowing from a Racketeer Influenced and Corrupt Organizations Act violation?	012437.docx	LEGALEASE-00148258- LEGALEASE-00148259
United States v. Kemmel, 188 F. Supp. 736	63+1(1)	Under statute prohibiting the promising, offering or giving of money to a government officer or employee with intent to influence him in the discharge of his lawful duties, an actual tender of the bribe is not necessary to perfect the offense, but mere acts of preparation will not suffice. 18 U.S.C.A. S 201.	Are mere acts of preparation enough to suffice for a charge of bribery?	012462.docx	LEGALEASE-00148640- LEGALEASE-00148641
State v. Conn, 420 So. 2d 1123	67+6	It is not necessary for a person to be present in the house at the time of the burglary in order to satisfy the "inhabited dwelling" requirement of the burglary statute. LSA-R.S. 14:62.2.	Is it necessary for the building to be occupied to constitute burglary?	013016.docx	LEGALEASE-00148794- LEGALEASE-00148795

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Compton v. State, 607 S.W.2d 246	234+7	Three ways that ownership of stolen property may be alleged are that named individual had title to the property, possession, or a greater right to possession than defendant, and greater right to possession theory does not apply only in cases where both owner and actor have joint interests in the property; overruling McGee v. State, 572 S.W.2d 723. V.T.C.A., Penal Code S 1.07(a)(24, 28).	How is the ownership of the burglarized premises proven?	013040.docx	LEGALEASE-00148806- LEGALEASE-00148807
Stottlemeyer v. Crampton, 235 Md. 138	200+167	Under right to use public roads, person may use highway for purpose of leading or driving cattle. Code 1957, art. 66C, S 467.	Can cattles be driven in public highway?	Highways -Memo 249- IS.docx	LEGALEASE-00038362- LEGALEASE-00038363
Amoco Prod. Co. v. Guild Tr., 636 F.2d 261	260+55(5)	Under Wyoming law, reservation of "coal and other minerals" in 1909 railroad deed conveying surface of land grants from United States Government was unambiguous and included oil and gas, notwithstanding references to "mines" or "mining" in the reservation.	"Does the reservation of ""coal and other minerals"" include oil and gas?"	021193.docx	LEGALEASE-00148238- LEGALEASE-00148239
Skivolocki v. E. Ohio Gas Co., 38 Ohio St. 2d 244	260+55(6)	Right to strip mine is not incident to ownership of a severed mineral estate.	Is the right to strip mine incident to ownership of a mineral estate?	021541.docx	LEGALEASE-00148679- LEGALEASE-00148680
Welcome v. Jennings, 780 P.2d 1039	260+23(3)	In order to preserve exclusive right of possession and extraction of minerals from mining claim, locator must perform annual labor and record annual affidavit of labor. AS 38.05.210.	"Does a person acquire the exclusive right to possess and extract minerals by discovery, location, and recording?"	021614.docx	LEGALEASE-00148173- LEGALEASE-00148174
General Elec. Credit Corp. v. Stover, 708 S.W.2d 355	289+1145	Under the Uniform Limited Partnership Act of 1967, a limited partner was without authority to act for or bind partnership or general partners. K.S.A. 56-101 to 56-151 (Repealed).	Does a limited partner have authority to act for or bind the partnership?	022501.docx	LEGALEASE-00148949- LEGALEASE-00148950
Argence v. Box Opportunities, 95 So. 3d 539	307A+581	Dismissal of an action on grounds of abandonment may only be made without prejudice. LSA-C.C.P. arts. 561, 2129, 2164.	Can dismissal of an action on grounds of abandonment be made without prejudice?	036579.docx	LEGALEASE-00148776- LEGALEASE-00148777
Jaffe v. Heffner, 173 Cal. App. 2d 512	308+182	An agent is presumed to have performed his duty in communicating knowledge or information to his principal.	Has an agent performed his duty by communicating knowledge or information to principal?	041364.docx	LEGALEASE-00148550- LEGALEASE-00148551
LaBombard v. Peck Lumber Co., 141 Vt. 619	413+2	The right to workers' compensation is fully statutory, nonexistent except under the circumstances provided in the statute.	"Is the right to workers compensation wholly statutory, not existing except under the circumstances provided in the act?"	048380.docx	LEGALEASE-00148240- LEGALEASE-00148241
Matter of Johner, 643 P.2d 932	413+2	Workers' compensation is a statutory responsibility and any change or addition to the law is a function of the legislature and not the courts.	Is workers compensation a statutory responsibility?	048383.docx	LEGALEASE-00148250- LEGALEASE-00148251
Commonwealth v. Hufnal, 185 Pa. 376	18+7	Act June 26, 1895, P.L. 317, "An act to provide against the adulteration of food," though providing: "An article shall be deemed to be adulterated: * (a) In the case of food: * (3) if any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it,"- does not authorize conviction of one who, under the description of "skimmed milk," sells milk from which the cream has been taken by separator process, known as the "centrifugal method," though thereby more cream is extracted than by the old-fashioned skimming process.	Is skimmed milk an exempting clause or not prohibited under adulteration?	006545.docx	LEGALEASE-00149335- LEGALEASE-00149336

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D.C. v. Lynham, 16 App. D.C. 85	198H+982	It is no defense for a druggist who is prosecuted for selling an adulterated drug in violation of Act Cong. Feb. 17, 1898 (30 Stat. 246), relating the adulteration of foods and drugs in the District of Columbia, to show simply that he was at the time of sale, or of possession for sale, ignorant of the fact that the drug was adulterated, as he must know what he sells, or proposes to sell, and that it conforms to the standard prescribed by law.	Can a defendant take up a defense of ignorance of adulteration?	Adulteration- Memo 57- _1Uh9DiV52Gn6e9JraZ00 BWvG-kYO4PNqO.doc	ROSS-000000139-ROSS- 000000140
State v. Smith, 10 R.I. 258	178+14	An indictment charged defendant with willfully and unlawfully having in his possession with intent to sell and exchange, and with having for sale and exchange, certain watered milk. Held, that evidence of the possession of such milk by defendant's servant, with intent to sell or exchange the same, was not sufficient to convict defendant, without proof that the servant, in so possessing the milk, was acting for and in accordance with the will of the defendant, his master.	Will milk be adulterated if certain foreign substance are added?	Adulteration- Memo 58- IS_58590.doc	ROSS-003292442-ROSS- 003292443
United States v. Zenon, 182 F. Supp. 2d 211	34+40(5)	An individual may be convicted of violating statute prohibiting trespassing on a military installation in instances where the government does not own the property in question; when the government does not own the land, statute requires only that government demonstrate either a possessory interest in, or occupation or control of, the area reserved by the military. 18 U.S.C.A. S 1382.	Is government ownership of the property in question a requisite for a conviction under 18 U.S.C. 1382?	008783.docx	LEGALEASE-00149762- LEGALEASE-00149763
Ex parte Burson, 615 S.W.2d 192	34+101	Veterans Administration benefits, unlike air force disability retirement benefits, are not divisible or assignable; they are not property. 38 U.S.C.A. S 3101.	Are Veterans Administration (VA) benefits divisible?	Armed Services - Memo 336 - RK_58609.docx	ROSS-003294404-ROSS- 003294405
Neely v. Comm'n for Lawyer Discipline, 302 S.W.3d 331	92+1228	There are no constitutional rights to privacy affected by disclosure of banking records or in personal financial records.	Do financial records have a constitutional right to privacy?	009649.docx	LEGALEASE-00149633- LEGALEASE-00149634
Robinson v. Lair, 31 Iowa 9	83E+789	In order to cast upon the plaintiff in an action upon a promissory note, or other written instrument, the burden of proving the genuineness of the signature of the maker or indorser thereof, the same must, under our present statute, chap. 28, laws of 1862, be denied under oath by the party whose signature it purports to be. It is accordingly held, that a denial by the maker of the genuineness of the signature of the indorser is not sufficient to throw such onus upon the plaintiff.	Till when shall a signature be deemed genuine and admitted?	Bills and Notes - Memo 777 -IS_58623.docx	ROSS-003296630-ROSS- 003296631
Coltharp v. Calcasieu-Marine Nat. Bank of Lake Charles, 199 So. 2d 568	83E+426	Negotiable Instruments Law provision that, where an instrument, payable to bearer, is endorsed specially, it may nevertheless be further negotiated by delivery, has no application to instrument originally payable to order and subsequently converted to bearer paper by a blank endorsement. LSA-R.S. 7:9(5), 7:34, 7:40.	What happens when an instrument payable to bearer is endorsed specially?	Bills and Notes -Memo 977-DB.docx	LEGALEASE-00038984- LEGALEASE-00038985
Elston v. Dewes, 28 Ill. 436	83E+675	Prior to the act of the general assembly of 1861, Laws 1861, p. 119, days of grace could not be claimed by the maker of a note.	Did days of grace exist as a right prior to the passing of the act of 1861?	Bills and Notes -Memo 998-DB_58722.docx	ROSS-003296367-ROSS- 003296368

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Rountree v. Chowan Cty., 796 S.E.2d 827	184+22(1)	Retired tax administrator's purported reliance on county's representation that new position with county would not jeopardize his eligibility for retirement benefits was not justified, and thus did not support negligent misrepresentation claim; administrator did not make a reasonable inquiry into county's alleged representations and was not denied the opportunity to investigate, administrator was aware that the rules governing his benefits were available in the state employee retirement handbook and had consulted the handbook for other benefits information, and administrator did not consult with anyone else regarding his eligibility requirements before coming out of retirement and accepting the new position.	Does a plaintiff's negligence claim fail if he fails to make any independent investigation or fails to demonstrate he was prevented from doing so?	014074.docx	LEGALEASE-00149851- LEGALEASE-00149852
State v. Nesbitt, 79 Idaho 1	200+163(3)	Wicked, wilful or criminal intent to violate statute is not an essential ingredient of crime of obstructing a public road. I.C. S 18-3907.	Is intent essential in a crime of obstructing a public highway?	019007.docx	LEGALEASE-00149293- LEGALEASE-00149294
Goodwine v. Vermilion Cty., 271 Ill. 126	200+121	Power of county board to aid in the construction of roads and bridges under County Law, S 57, S.H.A. ch. 34, S 57, held not limited or modified by Road and Bridge Act, S 126, S.H.A. ch. 121, S 134.	Does the county board have the power to aid in the construction of roads?	Highways -Memo 283 - DB_58544.docx	ROSS-003282507-ROSS- 003282508
Newell v. Cincinnati, N.O. & T.P. Ry. Co., 246 Ky. 628	371+2413	Powers of fiscal court to levy tax are limited by statute, and must be strictly construed.	Can the fiscal court of a county levy taxes?	019113.docx	LEGALEASE-00149509- LEGALEASE-00149510
Jackson v. State Highway Dep't of Ga., 164 Ga. 434	200+103.1	State highway board has large discretion in locating state-aid road, and should consider costs, difficulties, advantages and markets served in selecting route. Park's Ann.Code Supp.1922, S 828 (ppp).	Does the state highway board have discretion in locating a state-aid road?	Highways-Memo 224- ANM_58553.docx	ROSS-003283328-ROSS- 003283329
Gayon v. McCarthy, 252 U.S. 171	221+212	Cr.Code, S 10, as amended by Act May 7, 1917, 18 U.S.C.A. S 22, as to hiring or retaining another to go outside the United States with intent to enlist in the service of a foreign people, uses "retain" as an alternative to "hire," and as meaning something different from the usual employment with payment in money; and one may be retained, in the sense of engaged, to render a service by a verbal promise, and by a prospect for advancement or payment in the future.	Is there a difference between retain and hire?	Neutrality Laws - Memo 28 - ANM.docx	LEGALEASE-00039207- LEGALEASE-00039208
Gayon v. McCarthy, 252 U.S. 171	221+212	Cr.Code, S 10, as amended by Act May 7, 1917, 18 U.S.C.A. S 22, as to hiring or retaining another to go outside the United States with intent to enlist in the service of a foreign people, uses "retain" as an alternative to "hire," and as meaning something different from the usual employment with payment in money; and one may be retained, in the sense of engaged, to render a service by a verbal promise, and by a prospect for advancement or payment in the future.	Do the terms retain and hire means the same?	Neutrality Laws - Memo 30- ANM_58557.docx	ROSS-003320780
Perrin v. Keene, 19 Me. 355	289+956	A power to one partner to settle the affairs of the partnership, after a dissolution, does not authorize him to contract debts in the name of the firm, so as to bind his copartners; and the fact that the contract is for the loan of money to pay the partnership debts makes no difference.	Does the power to settle and adjust the affairs of the partnership authorize the use of the partnership name for that purpose?	022552.docx	LEGALEASE-00149891- LEGALEASE-00149892

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State ex rel. Nixon v. Summit Inv. Co., 186 S.W.3d 428	307A+581	Although delay in prosecuting an action does not, of itself, justify dismissal for failure to prosecute, it is a factor to be considered.	"Does a delay in prosecuting an action, justify dismissal for failure to prosecute?"	Pretrial Procedure - Memo # 8026 - C - NS_58381.docx	ROSS-003311235
Cotter v. Dias, 130 A.3d 164	307A+581	A mere delay is not enough to warrant a dismissal for lack of prosecution. Superior Court Rules Civ.Proc., Rule 41(b).	Is mere delay enough to warrant dismissal for lack of prosecution?	Pretrial Procedure - Memo # 8043 - C - NS_58398.docx	ROSS-003283109-ROSS-003283110
Smith v. SunTrust Bank, 554 B.R. 344	308+166(1)	In order to ratify an agreement, under North Carolina law, a party must have full knowledge of all material facts relative to the unauthorized transaction.	Is full knowledge required for ratification?	041387.docx	LEGALEASE-00149843-LEGALEASE-00149844
Citizens' Sav. & Loan Ass'n v. City of Topeka, 87 U.S. 655	371+2003	The power to tax is the strongest and most pervading of all powers of government reaching directly or indirectly to all classes of the people.	Is the power to tax the strongest of all the powers of government?	Taxation - Memo # 843 - C - JL_58471.docx	ROSS-003308105-ROSS-003308106
People v. Byrd, 285 Ill. App. 3d 641	3.77E+10	Gravamen of offense of intimidation is the exercise of improper influence, the making of a threat with intent to coerce another. S.H.A. 720 ILCS 5/12-6(a).	What is the gravamen of the offense of intimidation?	Threats - Memo #47 - C - LB_60787.docx	ROSS-003319376-ROSS-003319377
Allstate Ins. Co. v. Eagle-Picher Indus., 410 N.W.2d 324	413+9	Rights afforded by Workers' Compensation Act are incidents of employment relationship and are contractual in nature. M.S.A. S 176.001 et seq.	Is the right to compensation contractual in nature?	Workers Compensation - Memo #525 ANC_58599.docx	ROSS-003283286-ROSS-003283287
Urbina v. Homeview Lending Inc., 681 F. Supp. 2d 1254	172H+1584	Generally, RESPA does not create express or implied private rights of action; a limited exception to this rule exists when a specific statutory provision mentions such a right. Real Estate Settlement Procedures Act of 1974, S 2 et seq., 12 U.S.C.A. S 2601 et seq.	Does RESPA create private right of action?	Consumer Credit - Memo 90 - PR_59094.docx	ROSS-003310514-ROSS-003310515
Bloom v. Martin, 865 F. Supp. 1377	172H+1584	Amorphous goals of Real Estate Settlement Procedures Act (RESPA) of curbing abusive settlement practices in real estate industry did not translate into legislative intent to create private right of action for violation of RESPA section requiring disclosures by mortgage lenders at or prior to settlement. Real Estate Settlement Procedures Act of 1974, S 4, as amended, 12 U.S.C.A. S 2603.	Does RESPA create private right of action?	013985.docx	LEGALEASE-00150728-LEGALEASE-00150729
State v. Hale, 136 Tex. 29	405+2827	The Minnesota state tax commission may, on proper showing, abate an assessment in proceedings to construct a county ditch; such assessment being "an assessment levied by a municipality for local improvements" within Gen.St.1913, S 1978, (M.S.A. S 270.07), which abatement may be made after ditch is established and assessment confirmed.	Can the municipal corporations be authorized to levy assessments for local improvements?	Highways -Memo 270 - DB_59040.docx	ROSS-003282516-ROSS-003282517
Boyd v. Lane, 869 S.W.2d 305	302+53(2)	Express contract and implied contract may be pleaded in the alternative without the pleading being struck for insufficiency.	Can an express contract and an implied contract be pleaded in the alternative?	Pleading - Memo 489-RMM_59045.docx	ROSS-003296429-ROSS-003296430
Stamatiou v. El Greco Studios, 898 S.W.2d 571	302+36(1)	Pleader is not admitting anything other than uncertainty when stating facts in alternative, but if alternative fact allegations are not based on genuine doubt, they may be considered admissions against interest.	"Is the pleader admitting anything other than uncertainty, when stating facts in the alternative?"	023656.docx	LEGALEASE-00150290-LEGALEASE-00150291
Pietrangelo v. Wilmer Cutler Pickering Hale & Dorr, LLP, 68 A.3d 697	307A+622	A complaint must tender more than naked assertions devoid of further factual enhancement; in other words, factual allegations must be enough to raise a right to relief above the speculative level. Civil Rule 8(a)(2).	Should a complaint tender more than naked assertions devoid of further factual enhancement?	036668.docx	LEGALEASE-00150129-LEGALEASE-00150130

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Schmidt v. Mahoney, 659 N.W.2d 552	307A+624	An order granting a motion to dismiss for failure to state a claim may only be upheld if the petition on its face fails to set forth facts upon which relief could be granted under any circumstances.	"On a pre-trial motion to dismiss, can the trial court dismiss only if the pleading on its face fails to state a claim?"	Pretrial Procedure - Memo # 8213 - C - SKG.docx	LEGALEASE-00040101-LEGALEASE-00040102
Otte v. Edwards, 370 S.W.3d 898	307A+679	When reviewing a motion to dismiss for failure to state a claim upon which relief can be granted, the Court of Appeals applies the following standard of review: A motion to dismiss for failure to state a cause of action is solely a test of the adequacy of the plaintiff's petition; it assumes that all of plaintiff's averments are true, and liberally grants to plaintiff all reasonable inferences therefrom; and no attempt is made to weigh any facts alleged as to whether they are credible or persuasive, instead, the petition is reviewed in an almost academic manner, to determine if the facts alleged meet the elements of a recognized cause of action, or of a cause that might be adopted in that case.	"In order to avoid dismissal for failure to state a cause of action, should a petition invoke substantive principles of law entitling plaintiff to relief?"	Pretrial Procedure - Memo # 8328 - C - KI_58841.docx	ROSS-003294591-ROSS-003294592
Ingels v. Riley, 5 Cal. 2d 154	371+2001	Character of tax must be ascertained by its incidents and from natural and legal effect of language employed in taxing statute.	How should the character of tax be ascertained?	045972.docx	LEGALEASE-00150212-LEGALEASE-00150213
Dep't of Nat. Res. of State of Wash. v. Marr, 54 Wash. App. 589	411+6	Legislature's intent in enacting the Forest Practices Act was to foster the commercial timber industry while protecting the environment. West's RCWA 76.09.010.	What is the purpose of Forest Practices Act (FPA)?	047573.docx	LEGALEASE-00150540-LEGALEASE-00150541
Stoltz v. Aurora Loan Servs., 194 So. 3d 1097	83E+426	An indorsement in blank is sufficient to prove that the person in possession of the note is its holder.	What is sufficient to prove that the person in possession of the note is its holder?	Bills and Notes- Memo 1077- ANM_59394.docx	ROSS-003320199-ROSS-003320200
Bank of Indian Territory v. First Nat. Bank, 109 Mo. App. 665	83E+429	An indorsement on a draft by a bank to whom it is made payable as follows, "Pay to any bank or banker or order," is an indorsement for collection, and not a transfer of the title of the draft.	"Is pay to any bank or banker an indorsement for collection and that such an indorsement, under the general rule did not transfer title?"	010790.docx	LEGALEASE-00151367-LEGALEASE-00151368
Gibson v. Spikes, 143 Ark. 270	200+121	The Legislature has the power to levy road improvement assessments subject only to the right of the owner to have an arbitrary abuse of that power reversed by the courts.	Are the assessments levied by the legislature subjected to the rights of the landowner?	019160.docx	LEGALEASE-00151006-LEGALEASE-00151007
Matthews v. Simmons, 589 S.W.2d 156	302+20	Pleadings can be in the alternative, and a petition using the term "and/or" is not too indefinite to state a claim upon which relief can be granted.	Can pleadings be in the alternative?	023674.docx	LEGALEASE-00151323-LEGALEASE-00151324
Mechanics' Bank of Alexandria v. Bank of Columbia, 18 U.S. 326	308+92(1)	The liability of the principal depends on whether the act of his agent was done in the exercise and within the limits of the powers delegated. The profession on their face that an agent's acts were in the exercise of his agency does not give them their validity.	What does the liability of the principal depend on?	Principal and Agent - Memo 165 - KC_59447.docx	ROSS-003281671-ROSS-003281672
Kasson v. Noltner, 43 Wis. 646	308+92(1)	A principal is responsible for the act of his agent when he has either given the agent authority to do the act, or justified the party dealing with the agent in believing that the latter had such authority.	When is a principal responsible for the acts of the agent?	Principal and Agent - Memo 186 - KC_59467.docx	ROSS-003296542-ROSS-003296543
In re Estate of Capuzzi, 470 Mich. 399	308+92(1)	A duly authorized agent has the power to act and bind the principal to the same extent as if the principal acted.	Does the agent have the power to act and bind the principal to the same extent as if the principal acted?	041472.docx	LEGALEASE-00151329-LEGALEASE-00151330
Matter of Reyes Compania Naviera S.A., 649 F. Supp. 789	25T+171	Parties' intention to arbitrate can be determined not only by initial arbitration clause, but also by text of submission agreement.	How do courts determine the parties' intention to arbitrate?	007951.docx	LEGALEASE-00151414-LEGALEASE-00151415

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Am. Sugar Ref. Co. v. The Anaconda, 138 F.2d 765	25T+176	An arbitration agreement may be repudiated, waived, or abandoned by one or both of the parties to it.	"Can the parties to an arbitration agreement repudiate, waive or abandon it?"	007978.docx	LEGALEASE-00151441-LEGALEASE-00151442
Com. v. Wheeler, 205 Mass. 384	178+1	Rev.Laws, c. 56, SS 56, 57, as amended by St.1908, c. 643, providing punishment for selling or having for sale milk below a certain standard of quality, is a proper exercise of the police power for the prevention of fraud and the promotion of the public health.	Will the quality of milk depend on food that cows are fed?	Adulteration- Memo 61- _1ShT4GLCrafje4H8JYP6R Z486MD-CIqTD.docx	ROSS-000000145-ROSS-000000146
Hunt's Ex'r v. Hall, 37 Ala. 702	8.30E+10	A note executed in one state, and made payable in another, must bear interest according to the law of the latter state when no rate of interest is expressed.	Which law governs the interest payable on a note?	009801.docx	LEGALEASE-00151622-LEGALEASE-00151623
Collinwood Shale, Brick & Supply Co. v. Binder, 60 Ohio App. 2d 91	172H+1349	All possible security interests which are retained or could be acquired in consumer's residence in any consumer credit transaction must be clearly explained to consumer in separate statement in order to comply with requirement of "meaningful disclosure" under federal Truth in Lending Act. Truth in Lending Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.	Does the consumer have the right to rescind credit transactionin which a security interest is or will be retained or acquired in a consumer's home?	013876.docx	LEGALEASE-00151554-LEGALEASE-00151555
Sims v. First Consumers Nat. Bank, 303 A.D.2d 288	360+18.19	Regulation Z, which is derived from the federal Truth in Lending Act and which requires that consumer disclosures be clearly and conspicuously in writing, does not preempt state consumer protection law. Truth in Lending Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.; 12 C.F.R. S 226.5.	Is Regulation Z derived from the federal Truth in Lending Act?	013898.docx	LEGALEASE-00151588-LEGALEASE-00151589
Chamness v. Mays, 2014 IL App (5th) 130381	200+79.1	"Abandonment" of a road will be found only where the public has acquired the legal right to another road, or where the necessity for another road has ceased to exist.	How can the abandonment of a road be found?	Highways - Memo 298 - RK_59591.docx	ROSS-003309953-ROSS-003309954
Burke Cty. v. Askin, 291 Ga. 697	200+79.1	County had discretion to abandon road and trial court's role was limited to review of any such exercise of that discretion.	Does a County have discretion to abandon roads?	Highways - Memo 301 - RK_59594.docx	ROSS-003295769-ROSS-003295770
Field v. Webber, 132 Me. 236	200+172	Driving to left of middle of road which clear vision discloses unobstructed is not necessarily evidence of negligence. Rev.St.1930, c. 29, SS 2, 70-72, 74.	Is driving on the left negligent?	Highways - Memo 308 - RK_59601.docx	ROSS-003278516-ROSS-003278517
In re Smith Barney, 975 S.W.2d 593	296+10	A pension under Acts 1889, c. 198, is for future support of the pensioner, and not to reimburse him, and therefore a pension warrant issued after death of pensioner does not belong to his estate, but should be returned for cancellation.	Does a pension warrant issued after death of pensioner belong to the pensioners estate?	022881.docx	LEGALEASE-00151564-LEGALEASE-00151565
M.S.P.C. v. U.S. Cust. and Border Protec., 60 F. Supp. 3d 1156	24+397	The scope of judicial review of expedited orders of removal is extremely narrow. Immigration and Nationality Act, S 235(b)(1), 8 U.S.C.A. S 1225(b)(1).	Is the scope of judicial review of orders of removal narrow?	006882.docx	LEGALEASE-00152560-LEGALEASE-00152561
M.S.P.C. v. U.S. Cust. and Border Protec., 60 F. Supp. 3d 1156	24+397	The scope of judicial review of expedited orders of removal is extremely narrow. Immigration and Nationality Act, S 235(b)(1), 8 U.S.C.A. S 1225(b)(1).	Is the scope of judicial review of orders of removal narrow?	"Aliens, Immigration and Citizenship - Memo 43 - RK_60129.docx"	ROSS-003282794-ROSS-003282795
Bank Josephine v. Conn, 599 S.W.2d 773	349A+240	In action for deficiency judgment secured party, rather than debtor, had burden of proving that it acted with commercial reasonableness in holding and disposition of collateral. KRS 355.9-504.	Who has the burden to prove the commercial reasonableness of an act under a contract?	010277.docx	LEGALEASE-00152315-LEGALEASE-00152316
Kagan v. Wattendorf& Co., 294 Mass. 588	38+31	Valid assignment may be made by any words or acts which fairly indicate intention to make assignee the owner of the claim.	Is it compulsory to have written assignment?	010280.docx	LEGALEASE-00152351-LEGALEASE-00152352

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Bishoff v. Fehl, 345 Pa. 539	309+190(1)	On payment of note by surety, and not until such payment, surety may maintain common law action of "indebitatus assumpsit".	When can a surety maintain an action of indebitatus assumpsit?	010706.docx	LEGALEASE-00152600-LEGALEASE-00152601
Gidden Motor Co. v. Johnston, 155 Miss. 328	83E+418	Nonnegotiable instruments which partake of nature of commercial paper are assignable by indorsement and delivery.	Can nonnegotiable instruments be assigned by indorsement and delivery?	010749.docx	LEGALEASE-00152453-LEGALEASE-00152454
Chase Plaza Condo. Ass'n v. JPMorgan Chase Bank, N.A., 98 A.3d 166	83E+659	An indorsement in blank usually makes an instrument payable to the bearer and transfers with it legal title to security attached to the instrument. D.C. Official Code, 2001 Ed. SS 28:3-205, 28:3-301.	What is indorsement in blank or blank indorsement?	Bills and Notes-Memo 1168-ANM_59667.docx	ROSS-003291953-ROSS-003291954
Allen v. Beneficial Fin. Co. of Gary, 531 F.2d 797	172H+1342	Disclosure form required under the Truth in Lending Act is for the borrower and must be presented in a conceptual framework a borrower can easily comprehend, and the subtractional method does not provide such a framework. Truth in Lending Act, S 121(a) as amended 15 U.S.C.A. S 1631(a); Truth in Lending Regulations, Regulation Z, S 226.6(a), 15 U.S.C.A. following section 1700.	In what way should a disclosure be presented?	Consumer Credit -Memo 140 -DB_59672.docx	ROSS-003282411
Bone v. Hibernia Bank, 493 F.2d 135	172H+1346	Bank's use of "Rule of 78's" for computing finance charge rebates, instead of actuarial method, did not constitute a prepayment penalty charge required to be disclosed. Truth in Lending Act, S 124, 15 U.S.C.A. S 1634.	Does a rebate calculated according to the Rule of 78's constitute a penalty charge for prepayment that must be disclosed?	Consumer Credit -Memo 28 -DB_60045.docx	ROSS-003310303-ROSS-003310304
Rodrigues v. Members Mortg. Co., 323 F. Supp. 2d 202	172H+15(2)	The disclosure requirements of federal Truth in Lending Act (TILA) and Massachusetts Consumer Credit Cost Disclosure Act (CCCD) are essentially the same and generally do not require separate analysis. Truth in Lending Act, S 125, 15 U.S.C.A. S 1635; M.G.L.A. c. 140D, S 1 et seq.	Does TILA and CCCDA require a separate analysis?	Consumer Credit -Memo 93 -SB_60171.docx	ROSS-003309441-ROSS-003309442
Phipps v. United States, 126 Fed. Cl. 674	200+79.1	Under Iowa law, in order to prove abandonment of a highway, actual acts of relinquishment accompanied by an intention to abandon must be shown.	What needs to be shown in order to prove abandonment?	Highways - Memo 239 - RK_60182.docx	ROSS-003309439-ROSS-003309440
Stephens v. Dunn, 453 S.W.3d 241	30+3281	When reviewing dismissals for failure to state a claim, the appellate court reviews the facts alleged in the plaintiff's petition, without any weighing of credibility or persuasiveness, to determine if they meet the elements of any recognized cause of action.	Does a review of a motion to dismiss for failure to state a cause of action assume that all of plaintiff's averments are true?	037529.docx	LEGALEASE-00152124-LEGALEASE-00152125
St. Clair Intermediate Sch. Dist.t v. Intermediate Educ. Ass'n/Michigan Educ. Ass'n, 458 Mich. 540	308+1	Fundamental to the existence of an agency relationship is the right to control the conduct of the agent with respect to the matters entrusted to him. Restatement (Second) of Agency S 14.	Can a principal control the conduct of an agent?	041505.docx	LEGALEASE-00152325-LEGALEASE-00152326
McHarry v. Bowman, 274 Ill. App. 487	308+97	A power of attorney should be so construed as to limit power to clear and obvious intent of agency therein created.	Should a Power of Attorney be strictly limited to intent of parties?	042103.docx	LEGALEASE-00152291-LEGALEASE-00152292
Horton v. Fulton, 130 Ga. 466	21+7	On an interlocutory hearing for injunction, affidavits not "entitled in the cause," and which make no reference to the case or the court where the case is pending, are not admissible in evidence.	What is the consequence of affidavits not entitled in the cause?	Affidavits - Memo 53 - _1AVPphh1WQc4ul0ot30 6EHpwIF_NUEGd6.docx	ROSS-000000203-ROSS-000000204
Proctor v. Home Tr. Co., 221 Mo. App. 577	83E+731(1)	Indorsement is unnecessary to convey title or enable holder to sue on note in his own name as real party in interest.	Is a written assignment necessary for the holder to sue in his own name?	Bills and Notes - Memo 841 - RK_60294.docx	ROSS-003293081-ROSS-003293082
Jacobsen v. Bunker, 699 P.2d 1208	8.30E+10	Legal effect of promissory notes is governed by the law of the jurisdiction where they are executed and delivered.	Are promissory notes governed by the law of the place where they are executed?	009859.docx	LEGALEASE-00153578-LEGALEASE-00153579

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Jacobsen v. Bunker, 699 P.2d 1208	8.30E+10	Legal effect of promissory notes is governed by the law of the jurisdiction where they are executed and delivered.	Are promissory notes governed by the law of the place where they are executed?	Bills and Notes - Memo 898 - RK_60697.docx	ROSS-003306286-ROSS-003306287
Jacobsen v. Bunker, 699 P.2d 1208	8.30E+10	Legal effect of promissory notes is governed by the law of the jurisdiction where they are executed and delivered.	Are promissory notes governed by the law of the place where they are delivered?	Bills and Notes - Memo 899 - RK_60698.docx	ROSS-003284041-ROSS-003284042
Howard v. Branner, 23 La. Ann. 369	8.30E+10	A note executed in one state, and made payable in another, must bear interest according to the law of the latter state when no rate of interest is expressed.	Which law governs interest if a note is dated in one state and payable in another state?	Bills and Notes - Memo 905 - RK_60704.docx	ROSS-003281728-ROSS-003281729
Fedewa v. J.P. Morgan Chase Bank, Nat. Ass'n, 921 F. Supp. 2d 504	8.30E+282	Under Virginia law, notes are negotiable instruments that are freely transferable without impairment of the rights to subsequent holders.	Are notes negotiable instruments?	009891.docx	LEGALEASE-00153631-LEGALEASE-00153632
Smith v. Anderson, 70 Vt. 424	8.30E+10	Where parties to a note, who lived in different states, did not contract with reference to the law of either state, the law of the place in which the contract was made would determine the right to recover; and hence a charge that whether or not the note had been paid might depend on whether the contract was made in one state or another is not erroneous.	Which law governs the right to recover?	009897.docx	LEGALEASE-00153649-LEGALEASE-00153650
Matter of McLeod, 158 B.R. 393	83E+481	Although endorsement of order paper normally is prerequisite to transfer by negotiation, note can also be transferred by assignment.	Is it possible to transfer a note by assignment?	009959.docx	LEGALEASE-00153722-LEGALEASE-00153723
Diemar & Kirk Co. v. Smart Styles, 261 N.C. 156	172H+593	Drawer of check has right at any time prior to acceptance by bank, to stop payment of check.	Does a drawer of a check has a right to stop its payment?	Bills and notes-memo 82-IS_60736.docx	ROSS-003284516-ROSS-003284517
McGowan v. King, 569 F.2d 845	172H+1581	There was no requirement that plaintiff himself be deceived in order to sue in public interest under Truth in Lending Act. Truth in Lending Act, S 130(a) as amended 15 U.S.C.A. S 1640(a).	Is it a requirement to be deceived in order to sue in the public interest?	Consumer Credit - Memo 92 - SB_60300.doc	ROSS-003324312-ROSS-003324313
Esteban v. Cent. Missouri State Coll., 415 F.2d 1077	141E+990	School has latitude and discretion in its formulation of rules and regulations and of general standards of conduct.	What discretion does a school have in its formulation of standards of conduct?	017076.docx	LEGALEASE-00152953-LEGALEASE-00152954
Florence Cty. Sch. Dist. Four v. Carter By & Through Carter, 510 U.S. 7	141E+863	IDEA was intended to ensure that children with disabilities receive education that is both appropriate and free. Individuals with Disabilities Education Act, S 602(a)(18), as amended, 20 U.S.C.A. S 1401(a)(18).	What ensures appropriate education to children with disabilities?	Education - Memo#165 C-BR_60341.docx	ROSS-003281211-ROSS-003281212
Anderson v. Nesbitt, 43 Ind. App. 703	28+53	Owner of cows wrongfully allowing them to run at large on highway is not liable for injuries caused by horse frightened at the cows and running away; there being no special circumstances, such as allowing them to run at large during nighttime, or that they so obstructed the beaten part of highway that a horse would be frightened.	"Does an object in the highway in violation of statute, make the owner liable for damages resulting from fright which may have occasioned to horses ?"	019138.docx	LEGALEASE-00153590-LEGALEASE-00153592
State v. Jackson, 112 Wash. 2d 867	110+632(3.1)	General pleadings are to be liberally construed and where there is conflict between general and specific allegations of pleading, specific allegations control.	"Where there is a conflict between general and specific allegations of a pleading, will the specific allegations control?"	023696.docx	LEGALEASE-00153382-LEGALEASE-00153383
Bollen v. Woodhams, 68 Colo. 322	302+24	A "sham pleading" is one good in form, but false in fact.	"Is a sham pleading one good in form, but false in fact?"	023702.docx	LEGALEASE-00153257-LEGALEASE-00153258

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Wallisville Corp. v. McGuinness, 154 So. 3d 501	30+3284	An order dismissing a complaint for failure to state a cause of action is reviewed de novo.	"Should the party moving for dismissal for failure to state a cause of action admit all well pleaded facts as true, as well as reasonable inferences that can arise from those facts?"	Pretrial Procedure - Memo # 9083 - C - KI.docx	LEGALEASE-00043180-LEGALEASE-00043181
Ellis v. Harland Bartholomew & Assocs., 1 Haw. App. 420	307A+581	Where there has been a clear record of delay by the plaintiff, dismissal is properly granted.	Is a dismissal properly granted where there has been a clear record of delay by the plaintiff?	Pretrial Procedure - Memo # 9170 - C - KI_60481.docx	ROSS-003282990-ROSS-003282991
In re Greenfield Direct Response, 171 B.R. 848	308+105(1)	Under Illinois law, agent who collects money on behalf of principal does not become owner of such money.	Does an agent who collects money on behalf of the principal become the owner of the money?	041305.docx	LEGALEASE-00153163-LEGALEASE-00153164
Florida-Georgia Chem. Co. v. Nat'l Labs., 153 So. 2d 752	308+39	Revocation of agency becomes operative as to agent from time he has actual notice thereof, but notice to third parties will not effect revocation as to agent.	When is revocation effective or operative?	Principal and Agent - Memo 152 - SB_60771.docx	ROSS-003308035-ROSS-003308036
Quint v. O'Connell, 89 Conn. 353	308+99	The "apparent authority" of an agent is to be determined by the acts of the principal and not by the acts of the agent, the principal's liability being determined not merely by what was the apparent authority of the agent, but by what authority a third person, exercising reasonable care, was justified in believing principal had conferred upon the agent.	Can apparent authority be determined by the acts of the agents principal?	041420.docx	LEGALEASE-00153692-LEGALEASE-00153693
Michigan Employment Sec. Comm'n v. Patt, 4 Mich. App. 228	371+2001	Essential characteristics of a "tax" are that it is not a voluntary payment or donation, but an enforced contribution, exacted pursuant to legislative authority.	What is the essential character of a tax?	045996.docx	LEGALEASE-00153271-LEGALEASE-00153272
State ex rel. Spelts v. Rowe, 108 Neb. 232	371+2001	A tax law is a legislative enactment defining the measure of every man's duty in support of public burdens, and a tax thus imposed is not founded on contract, and does not establish the relation of debtor and creditor between the taxpayer and the state, and may be repealed or amended by a subsequent Legislature.	What are tax laws?	Taxation - Memo # 897 - C - JL_60604.docx	ROSS-003294173-ROSS-003294174
Weaver v. Prince George's Cty., 281 Md. 349	371+2060	"Property tax" is a charge on the owner of property by reason of his ownership alone without regard to any use that might be made of it.	What is property tax?	Taxation - Memo # 907 - C - JL_60612.docx	ROSS-003291908-ROSS-003291909
Keane v. Annice Heygood Trevitt Support Tr., 285 Ga. App. 155	21+5	An affidavit must be sworn to in person before a notary public or other officer empowered to administer oaths.	Is it necessary that the officer be empowered to administer oaths?	Affidavits - Memo 52 - _1Sp2AVpeWoeA6YxqDG FvIkPuCkNtrxbL-.docx	ROSS-000000201-ROSS-000000202
Reyes v. Arco Wentworth Mgmt. Corp., 83 A.D.3d 47	21+18	Absence of translator's affidavit, required of foreign language witnesses, renders a foreign language witness's English language affidavit facially defective and inadmissible. McKinney's CPLR 2101(b).	Should a translated affidavit be accompanied by an affidavit from the translator?	Affidavits - Memo 58 - _1fi4qqG94r0jYgtUdLgyMeDuvsd_Z6-Ng.docx	ROSS-000000212-ROSS-000000214
Gorman v. Am. Honda Motor Co., 302 Mich. App. 113	228+185.1(6)	An unsworn, unsigned affidavit may not be considered by the trial court on a motion for summary disposition. MCR 2.116(C)(10).	Can an unsigned affidavit be considered by the court?	Affidavits - Memo 85 - _1jj1GN0pIMUYCPtKuUptOG5V3JdPIEWXS.docx	ROSS-000000264-ROSS-000000265
Henson v. Bank of Am., 935 F. Supp. 2d 1128	8.30E+299	Under Colorado law, a promissory note is a negotiable instrument that is freely assignable.	Can a negotiable instrument which is freely assignable be called a promissory note?	009021.docx	LEGALEASE-00154751-LEGALEASE-00154752

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Curtiss v. Hazen, 56 Conn. 146	83E+341	Revision 1875, omitting the words "according to the custom of merchants and the law relating to inland bills of exchange," from the statute declaring that a note is negotiable which is "payable to a person or his order, or to the bearer," does not render negotiable a note payable to a person simply, and not to his order or to bearer.	Is a note payable to the order of a person or to the bearer negotiable?	Bills and Notes - Memo 857 - RK.docx	LEGALEASE-00043682-LEGALEASE-00043683
Papex Int'l Brokers Ltd. v. Chase Manhattan Bank, N.A., 821 F.2d 883	172H+821	Under Puerto Rico law, payee that never received and never possessed checks never became "holder" of checks and thus, lacked standing to sue collecting bank for accepting and paying checks on forged endorsements. 19 L.P.R.A. SS 17, 61, 91, 381.	Can a payee recover from the collecting bank on a forged indorsement if the check was never delivered to the payee?	Bills and Notes - Memo 859 - RK_61304.docx	ROSS-003291869-ROSS-003291870
In re Kellogg's Will, 14 Misc. 2d 1054	336H+457	A decree of the New York County Surrogate directing the assignment of decedent's note was res judicata against executors on that issue.	Can a note be assignable even if it is not negotiable?	009935.docx	LEGALEASE-00154014-LEGALEASE-00154015
Bronner v. Walrath, 208 A.D. 758	96+4	If one of several joint and several makers of a note pays more than his share, he may have contribution from the others.	"In case of joint liability on a note, can one person seek contribution from others?"	009970.docx	LEGALEASE-00154673-LEGALEASE-00154674
United States v. Teel, 691 F.3d 578	174+1.5	It was within district court's discretion to vary from Guidelines when fining defendant \$250,000 per count following conviction of offenses in connection with role in two separate bribery schemes; district court's reliance on defendant's assets was not in reference to his socio-economic status, instead, it was with regard to his ability to pay fine and need for fine to be sufficiently punitive. 18 U.S.C.A. S 3572(a)(1); U.S.S.G. S 5E1.2(d), 18 U.S.C.A.	Should the court consider the defendant's ability to pay when imposing a fine?	011123.docx	LEGALEASE-00154797-LEGALEASE-00154798
Barnes v. Chase Home Fin., 825 F. Supp. 2d 1057	172H+1322	As a consumer-protection statute, TILA is liberally construed in favor of consumers and is strictly enforced against creditors. Truth in Lending Act, S 102, 15 U.S.C.A. S 1601.	Is TILA strictly enforced against creditors?	013946.docx	LEGALEASE-00154004-LEGALEASE-00154005
Richard v. Perkins, 373 F. Supp. 2d 1211	92+4224(4)	Student athletes do not have property or liberty interests protected by the Due Process Clause in participating in intercollegiate athletics. U.S.C.A. Const.Amend. 14.	Do student athletes have a constitutional right to participate in athletic programs?	06608.docx	LEGALEASE-00096597-LEGALEASE-00096598
Fry v. Bd. of Regents of Univ. of Wisconsin Sys., 132 F. Supp. 2d 744	141E+1171	University's system for allocating mandatory student activity fees to fund student groups was not viewpoint neutral, and thus constituted compelled speech in violation of First Amendment rights of students who objected to positions and views of funded groups; system completely delegated funding decisions to student government without objective criteria or effective oversight. U.S.C.A. Const.Amend. 1.	Can a student be required to pay a fee to subsidize expressive speech?	016798.docx	LEGALEASE-00153861-LEGALEASE-00153862
Lattin v. Adams Cty., 149 Idaho 497	200+17	A public road may be acquired: (1) if the public uses the road for a period of five years, and (2) the road is worked and kept up at the expense of the public; the County must prove these elements by a preponderance of the evidence. West's I.C.A. S 40-202(3).	How can a public road be acquired?	Highways - Memo 2-KK_61209.docx	ROSS-003296016-ROSS-003296017
HSBC USA v. Lugo, 127 A.D.3d 502	307A+590.1	Defendant waived her right to seek dismissal of complaint as abandoned, where defendant did not object to plaintiff's treatment of her untimely answer as notice of appearance, and she thereafter sought documents from plaintiff. McKinney's CPLR 3215(c).	Can a defendant waive the right to seek a dismissal?	038908.docx	LEGALEASE-00154382-LEGALEASE-00154383

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Hope Lutheran Church v. Chellew, 460 N.E.2d 1244	308+1	Elements of actual agency relationship are manifestation of consent by principal, acquiescence by agent, and control exerted by principal.	What are the elements of actual agency?	041531.docx	LEGALEASE-00154103-LEGALEASE-00154104
Bank of New York v. Raftogianis, 418 N.J. Super. 323	83E+426	A note initially made payable "to order" that becomes a bearer instrument by being endorsed in blank can be both transferred and negotiated by delivery alone. N.J.S.A. 12A:3-109(c).	Can an instrument payable to bearer be negotiated by transfer?	Bills and Notes-Memo 1209-PR_61520.docx	ROSS-003280708
Billingham v. Bryan, 10 Iowa 317	83E+606	The indorsement of a nonnegotiable promissory note is equivalent to the execution of a new note, and the liability of the indorser is not contingent upon due presentation to the maker, and notice of non-payment.	"Whether the indorser of a promissory note not negotiable, is liable to a suit by the holder, without demand upon the makers, and notice of the non-payment?"	010868.docx	LEGALEASE-00155354-LEGALEASE-00155355
Ofor v. Ocwen Loan Servicing, 649 F.3d 808	170B+3634(4)	Court of Appeals applies an objective standard of review to allegations that a creditor violated TILA. Truth in Lending Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.	Are alleged violations of TILA subject to an objective standard of review?	Consumer Credit - Memo 192 - RK_61854.docx	ROSS-003322421-ROSS-003322422
Rudisell v. Fifth Third Bank, 622 F.2d 243	172H+1556	If disclosures required by Truth in Lending Act are not made, debtor has continuing right to rescind. Truth in Lending Act, S 125 as amended 15 U.S.C.A. S 1635.	Does the debtor have a continuing right to rescind if disclosures required by TILA are not made?	013781.docx	LEGALEASE-00155512-LEGALEASE-00155513
Phelps-Roper v. City of Manchester, Missouri, 738 F. Supp. 2d 947	129+111	City ordinance prohibiting pickets and protests within 300 feet of funeral or burial service was not narrowly tailored to serve significant government interest, for purposes of church members' challenge to ordinance on First Amendment grounds; first version of ordinance contained complete ban on pickets and protests within 300-foot radius of any funeral, while later versions restricted too much speech due to size of buffer zone. U.S.C.A. Const.Amend. 1.	"Does an ordinance which prohibits protected speech, picketing, and protests on public streets and sidewalks regulate expressive conduct protected by the First Amendment?"	Disorderly Conduct - Memo 151 - RK_61877.docx	ROSS-003280245-ROSS-003280246
Com. v. Fitta, 391 Mass. 394	92+1132(60)	Statute proscribing open and gross lewdness and lascivious behavior requires proof that defendant's act was committed in such a way as to produce alarm or shock, which is an additional element not required by statute proscribing indecent exposure; thus, the disparity of the sentencing provisions of these two statutes does not make them unconstitutionally vague. M.G.L.A. c. 218, S 26A; c. 272, S 16; U.S.C.A. Const.Amend. 14.	What is required to prove open lewdness?	Disorderly Conduct-Memo 142- JK.docx	LEGALEASE-00044775-LEGALEASE-00044776
Klinge v. Ithaca Coll., 167 Misc. 2d 458	141E+1015	Where a college has adopted a rule, the law requires substantial compliance.	"If a college adopts a rule, does the law require substantial compliance?"	Education - Memo # 295 - C - KS_61673.docx	ROSS-003298901-ROSS-003298902
Sluder v. Steak & Ale of Little Rock, 368 Ark. 293	307A+690	A dismissal with prejudice is as conclusive of the rights of the parties as if there were an adverse judgment as to the plaintiff after a trial.	Is the dismissal of a claim with prejudice conclusive as to the rights of the parties on that claim?	Pretrial Procedure - Memo # 10207 - C - SJ_61715.docx	ROSS-003285231-ROSS-003285232
FV-I for Morgan Stanley Mortg. Capital Holdings v. Kallevig, 392 P.3d 1248	307A+690	The proper remedy for a lack of standing is dismissal without prejudice.	Is the proper remedy for a lack of standing dismissal without prejudice?	Pretrial Procedure - Memo # 10215 - C - DHA.docx	LEGALEASE-00044986-LEGALEASE-00044987
Watkins Inv. Co. v. William B. Tanner Co., 684 S.W.2d 929	307A+581	In determining whether case should be dismissed, whether a claim has been diligently prosecuted must be decided on a case-by-case basis.	On what basis should it be decided whether a claim has been diligently prosecuted?	Pretrial Procedure - Memo # 9646 - C - KS_61399.docx	ROSS-003280624

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City of Waco v. Texas Coffin Co., 472 S.W.2d 800	307A+581	A case should not be dismissed on the ground of abandonment unless such abandonment clearly appears.	Should a case be dismissed on the ground of abandonment unless such abandonment clearly appears?	Pretrial Procedure - Memo # 9723 - C - NE_61410.docx	ROSS-003294583-ROSS-003294584
Reynolds v. Jimmy John's Enterprises, 2013 IL App (4th) 120139	307A+683	A motion for involuntary dismissal of action based on an affirmative matter admits the legal sufficiency of the complaint, admits all well-pleaded facts and all reasonable inferences therefrom, and asserts an affirmative matter outside the complaint bars or defeats the cause of action. S.H.A. 735 ILCS 5/2-619(a)(9).	Should an affirmative matter asserted by a defendant moving for involuntary dismissal based on certain defects or defenses be apparent on the face of the complaint?	039353.docx	LEGALEASE-00154898-LEGALEASE-00154899
Montgomery Furniture Co. v. Hardaway, 104 Ala. 100	308+93	The authority of a general agent is, as to third parties, what it appears to be, and must be determined by the nature of the business, and is prima facie coextensive with its requirements.	How is an agents authority determined?	041600.docx	LEGALEASE-00155637-LEGALEASE-00155638
Ford Motor Co. v. Kentucky Unemployment Comp. Comm'n, 243 S.W.2d 657	308+92(1)	The powers of an agent must be specifically granted or necessarily inferred, and they cannot be created carte blanche.	Should the powers of an agent be specific or necessarily inferred?	Principal and Agent - Memo 362 - KC.docx	LEGALEASE-00045524-LEGALEASE-00045525
Ford Motor Co. v. Kentucky Unemployment Comp. Comm'n, 243 S.W.2d 657	308+92(1)	The powers of an agent must be specifically granted or necessarily inferred, and they cannot be created carte blanche.	Can the powers of an agent be created carte blanche?	Principal and Agent - Memo 366 - KC_61628.docx	ROSS-003281868
People ex rel. Curren v. Schommer, 392 Ill. 17	371+2001	A "tax" is a mode of raising revenue for public needs for a public purpose.	Is tax a mode of raising revenue for the public needs for a public purpose?	046081.docx	LEGALEASE-00154970-LEGALEASE-00154971
United States v. Arbo, 691 F.2d 862	411+12	Evidence was sufficient to show that government agents carrying out compliance inspection of defendant's claim were engaged in performance of their official duties as required to support defendant's misdemeanor conviction for interference with forest officers in performance of their official duties. 16 U.S.C.A. S 551.	Is it criminal to interfere with a forest official?	047643.docx	LEGALEASE-00155172-LEGALEASE-00155173
Garcia v. City of New York, 222 A.D.2d 192	141E+809(3)	School, acting in loco parentis, did not act with ordinary prudence in allowing five-year-old student to proceed to bathroom alone which gave rise to child's sexual molestation by older student where two memoranda had been circulated in school directing teachers to send all pupils under third grade to bathroom with partners, and principal testified regarding awareness of risks to unescorted students in school corridors and bathrooms.	Do schools act in loco parentis?	016844.docx	LEGALEASE-00156317-LEGALEASE-00156318
Douglas v. Aztec Petroleum Corp., 695 S.W.2d 312	156+52(1)	Purpose of estoppel is for protection of those who have been misled by that which upon its face was fair, and it is for protection of innocent, indeed, only the innocent may invoke it.	Does the purpose of estoppel is the protection of those who have been misled by that which upon its face was fair?	017787.docx	LEGALEASE-00156236-LEGALEASE-00156237
DRFP L.L.C. v. RepvJblica Bolivariana de Venezuela, 151 F. Supp. 3d 809	156+52(1)	While Ohio courts have long espoused that the point of estoppel is to prevent fraud, estoppel is not actionable fraud and is not treated like actionable fraud; there is usually no need for scienter, an intent to deceive, in estoppel cases.	Is estoppel not actionable fraud?	017801.docx	LEGALEASE-00156274-LEGALEASE-00156275

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Goettman v. N. Fork Valley Rest., 176 P.3d 60	307A+681	Documentary evidence that a court may consider on a motion by a nonresident defendant to dismiss for lack of personal jurisdiction consists of the allegations in the complaint, as well as affidavits and any other evidence submitted by the parties. West's C.R.S.A. S 13-1-124.	Does documentary evidence consist of the allegations in the complaint?	Pretrial Procedure - Memo # 10065 - C - AC_62395.docx	ROSS-003281888
Pantoja-Cahue v. Ford Motor Credit Co., 375 Ill. App. 3d 49	307A+681	A motion to dismiss is based on the pleadings rather than the underlying facts. S.H.A. 735 ILCS 5/2-615.	Is a motion to dismiss based on the insufficiency in the pleading rather than on the underlying facts?	024760.docx	LEGALEASE-00156206-LEGALEASE-00156207
City of Dallas, Tex. v. F.C.C., 118 F.3d 393	371+2002	Franchise fees are not a tax, but essentially a form of rent, the price paid to rent use of public right-of-ways.	Are franchise fees a tax?	Taxation - Memo # 983 - C - JL_62128.docx	ROSS-003295155-ROSS-003295156
Compton v. State, 607 S.W.2d 246	234+7	Three ways that ownership of stolen property may be alleged are that named individual had title to the property, possession, or a greater right to possession than defendant, and greater right to possession theory does not apply only in cases where both owner and actor have joint interests in the property; overruling McGee v. State, 572 S.W.2d 723. V.T.C.A., Penal Code S 1.07(a)(24, 28).	How is the ownership of burglarized premises proven?	013038.docx	LEGALEASE-00156417-LEGALEASE-00156418
Dwight v. Newell, 15 Ill. 333	162+124	One of several executors or administrators may assign a note made payable to the testator.	Can an executor assign a promissory note made payable to the testator?	Bills and Notes -Memo 1234 - JK_62259.docx	ROSS-003281447-ROSS-003281448
In re Kang Jin Hwang, 396 B.R. 757	83E+481	Under California law, fundamental feature of negotiable instruments is that they are transferred by delivery of possession, not by contract or assignment. West's Ann.Cal.Com. Code SS 3201, 3203.	Can a negotiable instrument be transferred by the delivery of possession?	010083.docx	LEGALEASE-00156643-LEGALEASE-00156644
State v. Butler, 178 Mo. 272	350H+519	Separate sentences could be imposed for offenses of burglary and possession of burglar's tools, in that each offense required proof of at least one element which the other did not; possession of burglar's tools requires possession of tool or instrument with intent to use it in burglary, while burglary does not require use of any tool or instrument, but does require entry of occupied structure. I.C.A. SS 713.1, 713.7.	Can burglary be committed without the use of tools?	Burglary - Memo 293 - RK_62295.docx	ROSS-003282463-ROSS-003282464
Templeton v. State, 725 So. 2d 764	67+9(1)	Any effort, however slight, such as the turning of a door knob to enter, constitutes a "breaking," for purposes of burglary.	Does turning a door knob constitute a breaking?	Burglary - Memo 300 - RK_62302.docx	ROSS-003295472-ROSS-003295473
Jenkins v. State, 101 So. 3d 161	67+9(1)	Using even the slightest force to gain unauthorized entry satisfies the breaking element of the crime of burglary; for example, opening an unlocked door or pushing a door that is slightly ajar constitutes a breaking. West's A.I.C. 35-43-2-1.	Does opening an unlocked door constitute a breaking?	Burglary - Memo 304 - RK_62306.docx	ROSS-003322147-ROSS-003322148
People v. Henry, 172 Cal. App. 4th 530	67+9(2)	Defendant's acts of forcing open the hood of an automobile and examining objects under the hood constituted "entry" of the automobile, as required for the offense of vehicle burglary, where the doors of the automobile were locked, and the hood could normally only be opened using a latch within the locked passenger compartment. West's Ann.Cal.Penal Code S 459.	Can the opening of a hood constitute burglary?	013156.docx	LEGALEASE-00156591-LEGALEASE-00156592
State v. Gotcher, 52 Wash. App. 350	67+10	Person is "armed" with deadly weapon, within meaning of first-degree burglary statute, when weapon is readily accessible and available for use. West's RCWA 9A.52.020(1).	When is a person armed with a deadly weapon under the burglary statute?	013166.docx	LEGALEASE-00156577-LEGALEASE-00156578

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People v. Davis, 112 A.D.3d 959	67+9(2)	Passing forged check through a chute in a walk-up window of a check-cashing facility, or inserting stolen automated teller machine (ATM) card into an ATM, is not an "entry" within the meaning of the burglary statute; although intended result in each instance is larceny, neither act violates occupant's possessory interest in building as does using a tool to reach into a building and remove property; disapproving People v. Ravenscroft, 198 Cal.App.3d 639, 243 Cal.Rptr. 827. West's Ann.Cal.Penal Code S 459.	Can entry in burglary be committed using an instrument?	013178.docx	LEGALEASE-00156589-LEGALEASE-00156590
Spence v. Spence, 368 S.C. 106	336H+107	Dismissal of a complaint "with prejudice" is intended to bar relitigation of the same claim.	"Is a dismissal of a complaint ""with prejudice"" intended to bar relitigation of the same claim?"	025027.docx	LEGALEASE-00156667-LEGALEASE-00156668
Nw. Mut. Life Ins. Co. v. State Bd. of Equalization, 73 Cal. App. 2d 548	268+405	A special assessment is a "tax" in that it distributes what is originally a public burden, but is not a tax in the sense of a tax for revenue which is an exaction upon the citizen for support of government, paid to the state as a state for protection or public service, whereas a special "assessment" is imposed upon property within a limited area for payment of a local improvement to enhance value of all property within that area and can be levied only upon land; and is ordinarily based wholly upon benefits, and is exceptional both as to time and locality.	Are special assessments and taxes both distribution of that which is originally a public burden?	Taxation - Memo # 1009 - C - JL_62481.docx	ROSS-003292342-ROSS-003292343
Morris Bros. Lumber Co. v. Eakin, 262 F.2d 259	411+1	Where cutting of standing timber sold is to commence at once and be completed within a reasonable time, it is regarded as personalty under Pennsylvania law.	Will standing timber be personalty?	Woods and Forests - Memo 2 - KC_62518.docx	ROSS-003284330-ROSS-003284331
In re Kang Jin Hwang, 396 B.R. 757	83E+481	Under California law, fundamental feature of negotiable instruments is that they are transferred by delivery of possession, not by contract or assignment. West's Ann.Cal.Com. Code SS 3201, 3203.	Can a negotiable instrument be transferred by contract or assignment?	Bills and Notes - Memo 1242 - RK_62532.docx	ROSS-003282172-ROSS-003282173
Nelson v. Regions Mortg., 170 S.W.3d 858	83E+481	Note purchaser who received assignment of mortgage and copies of the note and deed of trust, but who never received the original note and deed of trust, was not a "holder" of the note within the meaning of the law of negotiable instruments. V.T.C.A., Bus. & C. S 3.201(a).	Is possession of the original instrument necessary to be a holder?	009081.docx	LEGALEASE-00157117-LEGALEASE-00157118
McCullough v. Stepp, 91 Ga. App. 103	83E+426	An indorsement in blank specifies no indorsee, and an instrument indorsed in blank is payable to bearer and may be negotiated by delivery. Code, S 14-405.	Does indorsement in blank specifies any indorsee?	Bills and Notes-Memo 1277-ANM_63203.docx	ROSS-003307967
In re Mason's Estate, 194 Misc. 308	8.30E+11	Rule that validity of a contract is governed by law of place where contract is made is applicable to a check.	Is the validity of a contract governed by the place where the contract was made?	Bills and Notes-Memo 1419 - JK_63520.docx	ROSS-003282219-ROSS-003282220
Bradley v. State Farm Mut. Auto. Ins. Co., 290 Mich. App. 156	67+7	Landlord as property owner can be guilty of burglarizing premises of tenant who is possessor of the property if landlord breaks and enters without tenant's permission. Burns' Ann.St. S 10-701(b).	Can an owner or landlord be convicted of burglary?	013078.docx	LEGALEASE-00157187-LEGALEASE-00157188
Vacuum Sys. v. Bridge Const. Co., 632 A.2d 442	156+118	Estoppel is a doctrine that should be carefully and sparingly applied and requires clear and satisfactory proof.	Does estoppel require clear and satisfactory proof?	017887.docx	LEGALEASE-00157760-LEGALEASE-00157761
Campbell v. First Baptist Church of City of Durham, 51 N.C. App. 393	315+609	In an "exchange" of property, specific property is given in consideration of property other than money, although one of the parties may pay a sum of money in addition to the property.	What constitutes an exchange?	Exchange of property - Memo 9 - AM_62728.docx	ROSS-003294303-ROSS-003294304

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Adem v. Des Peres Hosp., 515 S.W.3d 810	307A+690	If a motion court's order and judgment do not specifically state that a claim is dismissed with prejudice, it is deemed to be dismissed without prejudice. Mo. Sup. Ct. R. 67.03.	"If a motion to dismiss did not specifically state it is dismissed with prejudice, is it deemed to be dismissed without prejudice?"	024898.docx	LEGALEASE-00157227-LEGALEASE-00157228
Rist v. Design Ctr. at Floor Concepts, 314 P.3d 681	307A+690	Typically, subject matter jurisdiction cannot be waived and can be raised at any time; furthermore, when subject matter jurisdiction is lacking, dismissing a claim with prejudice is appropriate.	"Typically, can subject matter jurisdiction be waived and can be raised at any time?"	024949.docx	LEGALEASE-00156769-LEGALEASE-00156770
Fairfield Mountain Prop. Owners Ass'n v. Doolittle, 149 N.C. App. 486	307A+690	A dismissal for failure to join a necessary party is not a dismissal on the merits and may not be with prejudice. Rules Civ.Proc., Rule 12(b)(7), West's N.C.G.S.A. S 1A-1.	Is a dismissal for failure to join indispensable party not an adjudication on the merits and cannot be granted with prejudice?	025021.docx	LEGALEASE-00157744-LEGALEASE-00157745
Save Our Springs All. v. City of Austin, 149 S.W.3d 674	307A+690	A finding that a claim is not ripe results in dismissal without prejudice.	Does a finding that a claim is not ripe result in dismissal without prejudice?	Pretrial Procedure - Memo # 10541 - C - SN_62441.docx	ROSS-003296525-ROSS-003296526
Frazier v. Progressive Companies, 27 S.W.3d 592	307A+690	The general rule is that a dismissal for want of prosecution is a dismissal without prejudice.	Is the general rule that a dismissal for want of prosecution is a dismissal without prejudice?	Pretrial Procedure - Memo # 10577 - C - DA_62614.docx	ROSS-003279262-ROSS-003279263
Rice v. Crow, 81 Cal. App. 4th 725	307A+690	Dismissal with prejudice is the modern name for a common law retraxit.	Is Dismissal with prejudice the modern name for a common law retraxit?	Pretrial Procedure - Memo # 10580 - C - DA_62617.docx	ROSS-003283051-ROSS-003283052
Osborne v. Osborne, 2 Conn. App. 635	307A+693.1	An order of nonsuit terminates an action when it is issued and no further proceedings are necessary.	Does an order of nonsuit terminate an action when it is issued and no further proceedings are necessary?	Pretrial Procedure - Memo # 10644 - C - NE_62460.docx	ROSS-003281950-ROSS-003281951
Jose v. Indiana Nat. Bank of Indianapolis, 139 Ind. App. 272	228+190	The practical effect of a judgment by way of a motion to dismiss and by a motion for summary judgment are the same and they both result in a final determination of controversy at trial level so that the party who is adversely affected has a right to appeal. Burns' Ann.St. SS 2-1007, 2-1011, 2-2524.	Are the practical effects of a judgment by way of a motion to dismiss and by a motion for summary judgment the same?	Pretrial Procedure - Memo # 10679 - C - KG_62658.docx	ROSS-003293029-ROSS-003293030
Hehr v. Swendseid, 243 Cal. App. 2d 142	307A+693.1	Dismissal obtained "without prejudice" will nevertheless be "with prejudice" if obtained in contravention of statute. West's Ann.Code Civ.Proc. S 581.	"Will a dismissal obtained ""without prejudice"" nevertheless be ""with prejudice"" if obtained in contravention of statute?"	025291.docx	LEGALEASE-00156977-LEGALEASE-00156978
Blake v. Stinson, 5 So. 3d 615	307A+581	"Willful default," as it applies to a dismissal for want of prosecution, is a conscious or intentional failure to act; no wrongful motive or intent is necessary to show willful conduct. Rules Civ.Proc., Rule 41(b).	Is wrongful motive or intent necessary to show willful conduct?	Pretrial Procedure - Memo # 10716 - C - SK_63252.docx	ROSS-003278732-ROSS-003278733
CTL/Thompson Texas v. Starwood Homeowner's Ass'n, 461 S.W.3d 627	307A+690	A dismissal with prejudice operates as res judicata to bar the dismissed claims; but a dismissal without prejudice means that the same claims may be refiled in an entirely new cause.	Does a dismissal with prejudice operate as res judicata to bar the dismissed claims?	Pretrial Procedure - Memo # 10882 - C - PC_63686.docx	ROSS-003294553-ROSS-003294554
Metro. Transit Auth. v. Ry. Exp. Agency, 323 Mass. 707	307A+517.1	A discontinuance is not a bar to the maintenance of a subsequent action brought for the same cause.	Is discontinuance a bar to the maintenance of a subsequent action brought for the same cause?	Pretrial Procedure - Memo # 11046 - C - KI_63435.docx	ROSS-003305891-ROSS-003305892
Nordstrom Credit v. Dep't of Revenue, 120 Wash. 2d 935	308+1	Agency requires that both parties consent to relationship and that principal exercise control over agent.	Does an agency require both parties consenting to the relationship?	Principal and Agent - Memo 424 - RK_63544.docx	ROSS-003294169-ROSS-003294170

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Townsend v. Univ. Hosp.- Univ. of Colorado, 83 S.W.3d 913	308+1	An agency relationship may be found from underlying facts or direct and circumstantial evidence showing the relationship of the parties.	Can agency be proven by circumstantial evidence?	Principal and Agent - Memo 441 - RK_63561.docx	ROSS-003293619-ROSS- 003293620
Whitley v. Taylor Bean & Whitacker Mortg. Corp., 607 F. Supp. 2d 885	308+1	The parties must consent to a principal-agent relationship, which may be created by conduct or contract.	Must the parties consent to a principal-agent relationship?	Principal and Agent - Memo 453 - RK_63573.docx	ROSS-003307710-ROSS- 003307711
Eyerman v. Mary Kay Cosmetics, 967 F.2d 213	308+1	Agency relationship contains three essential attributes; agent must have power to alter legal relations between principal and third parties, agent must be fiduciary of principal in matters within scope of agency, and principal must have right to control agent's conduct of matters entrusted to her.	Is an agent a fiduciary with respect to matters within the scope of the agency?	Principal and Agent - Memo 455 - RK_63575.docx	ROSS-003307525-ROSS- 003307526
In re Grabau, 151 B.R. 227	65+3	California Real Estate Act contemplates that someone can act as salesman without necessarily qualifying as real estate broker; in that instance, real estate salesman is merely agent of employing broker. West's Ann.Cal.Bus. & Prof.Code SS 10131, 10131.1-10131.3, 10131.6, 10132.	Who is a real estate salesman?	Principal and Agent - Memo 475- PR_63266.docx	ROSS-003283009-ROSS- 003283010
Basile v. H & R Block, 563 Pa. 359	308+1	Agency results only if there is an agreement for the creation of a fiduciary relationship with control by the beneficiary.	Can agency be a result of an agreement for the creation of a fiduciary relationship?	Principal and Agent - Memo 499 - KK_63278.docx	ROSS-003321365-ROSS- 003321366
Przekopski v. Przekop, 124 Conn. App. 238	308+1	"Agency" is the fiduciary relationship which results from manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and consent by the other so to act.	Who is a principal?	041926.docx	LEGALEASE-00157694- LEGALEASE-00157695
APSB Bancorp v. Thornton Grant, 26 Cal. App. 4th 926	308+3(2)	Independent contractor and agent are not mutually exclusive legal categories, and independent contractor is also an agent when it contracts to act on behalf of a principal and is subject to the principal's control except with respect to the agent's physical conduct.	Are independent contractors and agents mutually exclusive legal categories?	Principal and Agent - Memo 511 - KK_63289.docx	ROSS-003298508-ROSS- 003298509
In re NetBank, 459 B.R. 801	308+1	Essential characteristic of agency relationship is that agent acts subject to principal's direction and control.	What is the essential characteristic of an agency relationship?	Principal and Agent - Memo 575- SB_63591.docx	ROSS-003319318-ROSS- 003319319
In re Butler, 101 N.Y. 307	308+1	Under Washington law, agency relationship results from manifestation of consent by principal for agent to act on his behalf and subject to his control.	Can actual authority be created by a principal's manifestation of consent?	Principal and Agent - Memo 579- SB_63595.docx	ROSS-003319530-ROSS- 003319531
First Jackson Sec. Corp. v. B. F. Goodrich Co., 253 Miss. 519	308+3(1)	"Agent" is one who stands in shoes of his principal, and his principal's alter ego; word "employee" is not synonymous with "agent".	Does an agent stand in the shoes of the principal?	Principal and Agent - Memo 580- SB_63596.docx	ROSS-003281007-ROSS- 003281008
First Jackson Sec. Corp. v. B. F. Goodrich Co., 253 Miss. 519	308+3(1)	"Agent" is one who stands in shoes of his principal, and his principal's alter ego; word "employee" is not synonymous with "agent".	Can an agent be his principal's alter ego?	042083.docx	LEGALEASE-00157804- LEGALEASE-00157805

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In re Ricky T., 87 Cal. App. 4th 1132	3.77E+11	Surrounding circumstances must be examined to determine if threat which gives rise to charge of terrorist threat is real and genuine, a true threat. West's Ann.Cal.Penal Code S 422.	Why must the surrounding circumstances of a threat be examined?	"Threats, Stalking and Harassment- Memo #129 - C - LB_63323.docx"	ROSS-003295061-ROSS-003295062
Town v. Hazen, 51 N.H. 596	322H+697	A. conveys to B. a lot of land, reserving all the wood and timber standing and down thereon, with one year to remove the same. Whatever wood and timber A. cuts and severs from the soil within the year becomes his personal property, and remains his property after the year has expired, although he cannot remove the same after the expiration of the year without trespassing upon B.	Can a wood or tree become a personal property?	Woods and Forest - Memo 91 - SB_63604.docx	ROSS-003279777-ROSS-003279779
Marshall v. Staley, 528 P.2d 964	83E+481	Love and affection between decedent and his stepdaughters was sufficient consideration to support assignment of note from the decedent to his stepdaughters.	Is love and affection sufficient consideration to support an assignment?	Bills and Notes - Memo 1428 - RK_63811.docx	ROSS-003308243
Handy v. Anchor Mortg. Corp., 464 F.3d 760	172H+1342	The sufficiency of TILA-mandated disclosures is determined from the standpoint of the ordinary consumer. Truth in Lending Act, S 102 et seq., 15 U.S.C.A. S 1601 et seq.	Is the sufficiency of TILA-mandated disclosures determined from the standpoint of the ordinary consumer?	Consumer Credit - Memo 216-IS_64024.docx	ROSS-003281893-ROSS-003281894
Wilson v. Com., 290 Ky. 223	129+107	Under statute prohibiting photographing of a non-consenting person's intimate parts or undergarments covering those intimate parts not visible to the general public when the circumstances are such that the person being photographed would have a reasonable expectation of privacy, the requirement that the victim's intimate parts or undergarments covering those intimate parts not otherwise be visible to the general public does not mean that a violation must occur in a public place; rather, this is simply a standard by which to assess whether the victim's intimate parts or undergarments were reasonably out of view, as a prerequisite to finding that the accused has viewed them unlawfully. West's V.C.A. S 18.2-386.1(A).	What is reasonable expectation of privacy of a victim in a public place?	014299.docx	LEGALEASE-00159204-LEGALEASE-00159205
Ervin v. City of Pittsburgh, 339 Pa. 241	156+52(2)	The doctrine of "estoppel" is founded on considerations of sound public policy.	Is the doctrine of estoppel founded on considerations of sound public policy?	017856.docx	LEGALEASE-00159210-LEGALEASE-00159211
Saathoff v. City of San Diego, 35 Cal. App. 4th 697	183+1	In addition to criteria that privilege conferred upon corporation or individual by government duly empowered to grant it involve vital public service, municipal "franchise" must pertain to privilege that only government can bestow and which is essential to performance of general function of private party; while concept of franchise does not require continuance in perpetuity, it involves some degree of permanence and stability.	Is franchise a privilege available to individuals?	018575.docx	LEGALEASE-00158761-LEGALEASE-00158762
Saathoff v. City of San Diego, 35 Cal. App. 4th 697	183+1	In addition to criteria that privilege conferred upon corporation or individual by government duly empowered to grant it involve vital public service, municipal "franchise" must pertain to privilege that only government can bestow and which is essential to performance of general function of private party; while concept of franchise does not require continuance in perpetuity, it involves some degree of permanence and stability.	Is franchise a privilege available to individuals?	Franchises - Memo 4 - ANG.docx	LEGALEASE-00047942-LEGALEASE-00047943

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
E.M. Bailey Distrib. Co. v. Conagra, 676 S.W.2d 770	183+1	A franchise is a grant of right to use public property or at least the property over which granting authority has control. (Per Wintersheimer, J., with two Justices concurring and one Justice concurring result.)	Is franchise a right to use public property?	018607.docx	LEGALEASE-00158870- LEGALEASE-00158871
Foot v. Sabin, 19 Johns. 154	289+774	Where one of two partners subscribes the partnership name as surety to a note, the burden of showing the authority and consent of the other partner is on the holder of the note.	Does the burden of proving that the partner who did not sign consented to be bound lie on the creditor?	022629.docx	LEGALEASE-00158727- LEGALEASE-00158728
Shattuck v. Chandler, 40 Kan. 516	289+869	Comp.Laws 1885, c. 37, art. 2, provides that on the death of a partner the property shall be appraised and remain in the possession of the surviving partner, and if he sees fit to continue its management, and the disposing of the assets, and the payment of the debts, he may do so on giving bond; and the probate court may cite him to an accounting, and adjudicate on his accounts as on those of an administrator; and, in case of his failure to faithfully administer the estate, suit may be brought on his bond; and, if he refuse to give bond and take charge of the property, the deceased partner's administrator shall wind up the business. Held, that these provisions, being ample for their purpose, deprive the surviving partner of the power to transfer his trust by assigning for the benefit of creditors.	Does a surviving partner have the power to make an assignment of the partnership estate?	022636.docx	LEGALEASE-00158846- LEGALEASE-00158847
Madison County Bank v. Gould, 5 Hill 309	289+1145	A special partner, transacting any business for the firm, becomes a general partner, and liable for the debts of the firm.	"If a special partner transacts any business on account of a partnership, will he be deemed to be a general partner?"	022729.docx	LEGALEASE-00158550- LEGALEASE-00158551
Ankeny v. Lockheed Missiles & Space Co., 88 Cal. App. 3d 531	302+8(1)	Pleading must allege facts and not conclusions and material facts must be alleged directly and not by way of recital.	Should material facts be alleged by way of recital?	023813.docx	LEGALEASE-00158326- LEGALEASE-00158327
Cuthbertson v. Harry C. Harter Post No. 839 of the V.F.W., 245 Iowa 922	302+17	The issues of a law suit should be presented in an open and forthright manner, and there is no justification for a pleading by innuendo.	Should the issues of a law suit be presented in an open and forthright manner?	023833.docx	LEGALEASE-00158810- LEGALEASE-00158811
Matheson v. Am. Carbonics, 867 S.W.2d 146	307A+699	Oral hearing is required on any timely filed motion to reinstate following dismissal for want of prosecution, absent affirmative waiver of hearing by movant, and trial court has no discretion about whether to set hearing. Vernon's Ann.Texas Rules Civ.Proc., Rules 165a, 165a, subd. 3.	Is an oral hearing required on any timely filed motion to reinstate?	025561.docx	LEGALEASE-00158092- LEGALEASE-00158093
Tiffany v. Brenton State Bank of Jefferson, 508 N.W.2d 87	307A+699	Reinstatement of case dismissed for want of prosecution may be mandatory or discretionary; however, both types of reinstatement require proof that counsel exercised reasonable diligence in preparing and pursuing case for trial. Rules Civ.Proc., Rule 215.1.	Can reinstatement of a case dismissed for want of prosecution be mandatory or discretionary?	025563.docx	LEGALEASE-00158106- LEGALEASE-00158107
Munster v. Bill Watson Ford, 970 So. 2d 36	307A+690	A dismissal with prejudice is a severe penalty that should be reserved only for extreme circumstances.	Is a dismissal with prejudice a severe penalty that should be reserved only for extreme circumstances?	Pretrial Procedure - Memo # 10900 - C - PC_63898.docx	ROSS-003281444-ROSS- 003281445
Couchman v. Cardona, 471 S.W.3d 20	307A+693.1	A motion to dismiss with prejudice survives a nonsuit filed by a plaintiff.	Does a motion to dismiss with prejudice survive a nonsuit filed by a plaintiff?	Pretrial Procedure - Memo # 10943 - C - MS_63708.docx	ROSS-003296388-ROSS- 003296389

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Dir. of Ins. ex rel. State v. A & A Midwest Rebuilders, 383 Ill. App. 3d 721	170B+3292	Federal law draws a distinction between dismissing an action and dismissing a complaint; the former is a final judgment but not the latter.	Does federal law draw a distinction between dismissing an action and dismissing a complaint?	025744.docx	LEGALEASE-00158633-LEGALEASE-00158634
Mobil Oil Corp. v. Bransford, 648 So. 2d 119	307A+693.1	Dismissal of any claim against apparent agent also requires dismissal of same claim against apparent principal.	Does dismissal of any claim against an apparent agent also require dismissal of a same claim against an apparent principal?	Pretrial Procedure - Memo # 11004 - C - RF_64124.docx	ROSS-003282590-ROSS-003282591
Wade v. Welch, 8 So. 2d 128	307A+551	When an action is premature, it must be dismissed, reserving, however, to the plaintiff, the right to bring it in due time. Code Prac. art. 158.	"When an action is premature, should it be dismissed?"	Pretrial Procedure - Memo # 11060 - C - SHS_63447.docx	ROSS-003284550-ROSS-003284551
Ortega v. Transamerica Ins. Co., 91 N.M. 31	307A+693.1	Effect of a dismissal without prejudice is that it ordinarily imports further proceedings.	Is an effect of a dismissal without prejudice that it ordinarily imports further proceedings?	Pretrial Procedure - Memo # 11120 - C - VP_63778.docx	ROSS-003280821-ROSS-003280822
In re D.D.M., 116 S.W.3d 224	307A+508	A "claim for affirmative relief" is a pleading that states facts showing a cause of action independent of the plaintiff's claim and allows defendant to recover benefits, compensation, or relief despite plaintiff's abandonment or failure to establish a claim.	Can a prior pleading be a claim for relief?	039552.docx	LEGALEASE-00159208-LEGALEASE-00159209
Bushendorf v. Freightliner Corp., 13 F.3d 1024	308+3(1)	Automobile dealer or other similar type of dealer who merely buys goods from manufacturers or other suppliers for resale to consuming public is not his supplier's agent.	Can the agent bind his principal with representations made within the scope of his employment?	Principal and Agent - Memo 379 - RK_63937.docx	ROSS-003323655-ROSS-003323656
Kingan & Co. v. Silvers, 13 Ind. App. 80	308+3(1)	Legal difference between agent and servant is that agency imports commercial dealing between two parties through another, while service refers to actions on and concerning things and deals with matters of manual or mechanical execution.	What does service deal with?	Principal and Agent - Memo 398 - RK_63954.docx	ROSS-003278960-ROSS-003278961
Arsand v. City of Franklin, 83 Wis. 2d 40	308+159(1)	An agent may or may not be a servant; if he is not a servant, his principal is not vicariously liable for his negligent physical conduct except under certain circumstances.	Can an agent be a servant?	Principal and Agent - Memo 402 - RK_63957.docx	ROSS-003283075-ROSS-003283076
California Real Estate Loans v. Wallace, 18 Cal. App. 4th 1575	65+102	For purposes of liability to third parties for torts, real estate salesperson is agent of broker who employs him or her, and broker is liable as matter of law for all damages caused to third persons by tortious acts of salesperson which were committed within course and scope of salesperson's employment.	"Is a salesperson, the agent of the broker?"	Principal and Agent - Memo 473-PR_63796.docx	ROSS-003307632-ROSS-003307633
Tax Matrix Techs. v. Wegmans Food Markets, 154 F. Supp. 3d 157	308+48	Under Pennsylvania law, an agency relationship is a fiduciary one, and the agent is subject to a duty of loyalty to act only for the principal's benefit.	Does an agent have a duty to be loyal to his principal?	041959.docx	LEGALEASE-00159071-LEGALEASE-00159072
Gipson v. Davis Realty Co., 215 Cal. App. 2d 190	308+1	By virtue of statutory enactment real estate salesman is agent of real estate broker as matter of law. West's Ann.Bus. & Prof.Code, SS 10000-11709, 10131, 10132, 10137, 10151, 10160, 10177(h).	Are real estate salesmen agents of the broker?	041991.docx	LEGALEASE-00159103-LEGALEASE-00159104

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Matter of Assessment of Additional N. Carolina & Orange Cty. Use Taxes Against Vill. Pub. Corp. for Period from Apr. 1, 1972 through Mar. 31, 1978, 312 N.C. 211	371+3602	Purpose of the state sales and use tax is to generate revenue for the state and to equalize the tax burden on all state residents. G.S. S 105-164.1 et seq.	Is the purpose of the state sales and use tax is to generate revenue for the state?	046289.docx	LEGALEASE-00159085- LEGALEASE-00159086
In re Marisol N.H., 115 A.D.3d 185	196+8	In proceedings in which three children petitioned the Family Court for the appointment of their natural mother as their guardian, so that they could pursue special immigrant juvenile status (SIJS) as a means to obtaining lawful residency status in the United States, the Family Court had the statutory authority under the Surrogate's Court Procedure Act to grant the children's petitions for the appointment of their mother as their guardian, even though no one was opposing the appointment of the mother as guardian of the children. 8 U.S.C.A. S 1101(a)(27)(J)(iii); 8 C.F.R. S 204.11(c); McKinney's SCPA 103(24), 1703.	Does the procedure for obtaining Special Immigrant Juvenile (SIJ) status involve the collaboration of state and federal systems?	006767.docx	LEGALEASE-00160316- LEGALEASE-00160317
In re Mario S., 38 Misc. 3d 444	24+179	Alien child, who was brought from Mexico to the United States by his mother to live with his father when he was about six months old, was eligible for special immigrant juvenile (SIJ) status; child was an unmarried person under 21 years of age, at the time child's motion was filed and granted he was a dependent child under New York law as he was a juvenile delinquent placed in the legal custody of a state agency and was under the continuing jurisdiction of the Family Court, child's father had abandoned him under New York law, child's reunification with his father, who had been deported to Mexico, was not possible, child's reunification with his mother was tenuous given her apparent immigration status, and it was not in child's best interests to be returned to Mexico, as he would be a stranger in a foreign land were he to be forced to return there. Immigration and Nationality Act, S 101(a)(27)(J), 8 U.S.C.A. S 1101(a)(27)(J); 8 C.F.R. S 204.11(c).	Do eligibility requirements for juvenile immigrants hinge primarily on a reunification determination?	006856.docx	LEGALEASE-00160474- LEGALEASE-00160475
Lehndorff Geneva v. Warren, 74 Wis. 2d 369	24+116	Resident aliens enjoy the heightened judicial solicitude of a suspect class.	Are resident aliens a class of people who are appropriate for heightened judicial solicitude?	"Aliens, Immigration and Citizenship - Memo 64 - RK_64798.docx"	ROSS-003307202-ROSS-003307203
Sei Fujii v. State of California (1952) supra, 38 Cal.2d 718	24+123	All aliens lawfully in the United States have right to work for living in common occupations of community. Nationality Act of 1940, SS 303, 701, as amended, 8 U.S.C.A. SS 703, 1001; Immigration Act of 1924, S 13(c), as amended, 8 U.S.C.A. S 213(c).	Do aliens have a right to work for a living in the common occupations of the community?	006908.docx	LEGALEASE-00160101- LEGALEASE-00160102
I.N.S. v. Lopez-Mendoza, 468 U.S. 1032	24+292	Mere fact of illegal arrest had no bearing on subsequent deportation proceeding against alien who had objected only to fact that he had been summoned to a deportation hearing following unlawful arrest, but had entered no objection to receipt in evidence of admission, after arrest, of illegal entry into country.	Does an illegal arrest have bearing on a subsequent deportation proceeding?	"Aliens, Immigration and Citizenship - Memo 78 - RK_64812.docx"	ROSS-003310027-ROSS-003310028

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Oates v. First Nat. Bank of Montgomery, 100 U.S. 239	83E+524	Act Ala.1873, p. 111, puts "bills of exchange and promissory notes, payable in money at a certain place of payment therein designated," upon the same basis as to immunity from set-off, discount, or equities as bills and notes payable at a bank or private banking house.	What governs the bills of exchange and promissory notes payable in money at banks or private banking house?	008987.docx	LEGALEASE-00159238- LEGALEASE-00159239
Lowry Nat. Bank v. Fickett, 122 Ga. 489	8.30E+266	The term "renewal," as applied to a note, means the re-establishment of the particular contract for another period of time.	What is renewal as applied to a promissory note?	009636.docx	LEGALEASE-00159893- LEGALEASE-00159894
Schwegmann Bank & Tr. Co. of Jefferson v. Falkenberg, 931 F.2d 1081	83E+533	In deciding whether holder of negotiable instrument is holder in due course, under Louisiana law, court must examine facts surrounding transaction to determine whether holder took note in subjective good faith. LSA-R.S. 10:3-302.	Can a party acquire holder in due course status by becoming a holder of a negotiable instrument?	010477.docx	LEGALEASE-00159866- LEGALEASE-00159867
Veschi v. Nw. Lehigh Sch. Dist., 772 A.2d 469	92+1075	Parents have constitutionally protected right to decide where child goes to school.	Do parents have a constitutional right to decide where their child attends school?	Education - Memo 257 - C - HJ_64174.docx	ROSS-003292819-ROSS- 003292820
Collett v. Collett, 217 S.W.2d 60	156+54	There can be no estoppel in pais in absence of deception, which cannot exist when the party pleading estoppel has full knowledge of the truth of the matter.	Can there be no estoppel in pais in the absence of deception?	017860.docx	LEGALEASE-00159248- LEGALEASE-00159249
Lone Mountain Prod. Co. v. Nat. Gas Pipeline Co. of Am., 710 F. Supp. 305	156+87	Because test for estoppel is objective in nature, party asserting estoppel must show that his reliance was reasonable under the circumstances.	Is the test of estoppel objective?	017901.docx	LEGALEASE-00159958- LEGALEASE-00159959
State ex rel. Peterson v. Quinlivan, 198 Minn. 65	101+1212	"Franchise" as applied to corporations is generally used to designate right or privilege conferred by law.	Is franchise a privilege conferred by law?	Franchise - Memo 28 - KNR_64624.docx	ROSS-003292654-ROSS- 003292655
State ex inf. Shartel, ex rel. City of Sikeston v. Missouri Utilities Co., 331 Mo. 337	183+2	Power to grant franchises resides in state, and city, in granting franchise, acts as state's agent.	Does the city act as agent of the state while granting franchises?	018504.docx	LEGALEASE-00160020- LEGALEASE-00160021
Greenberg v. City of New York, 152 Misc. 488	48A+84	Action of board of estimate in granting bus franchise is not subject to review or appeal, but is true legislative act; but action of transit commission in granting or denying certificate of convenience and necessity is subject to judicial review by court on certiorari.	Is a certificate of convenience and necessity different from a franchise?	018515.docx	LEGALEASE-00160057- LEGALEASE-00160058
People ex rel. Roberts & Schaefer Co. v. Emmerson, 305 Ill. 348	371+2540	Corporation Act of 1919, S 105, Similar provisions Corporation Act 1933, see S.H.A. ch. 32, SS 157.131-157.133, 157.138-157.140, requiring each corporation to pay annual franchise tax on its authorized capital stock, is not a property tax dependent on value of corporate assets, but is to be construed with reference to distinction between "capital stock" and "capital," the capital stock being the sum total fixed by the charter as the amount paid in or to be paid in as capital on which the corporation is to do business; capital may be increased by surplus profits or diminished by losses, but not the capital stock.	Is franchise tax paid annually?	018527.docx	LEGALEASE-00159944- LEGALEASE-00159945

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Marcoux v. Shell Oil Prod. Co. LLC, 524 F.3d 33	29T+270(4)	District court set appropriate threshold for materiality of breach required for constructive termination under PMPA, in instructing jury that it could find constructive termination only if breach of lease was such material change that it effectively ended lease, even though gasoline service station franchisees continued to operate business, and that question was not simply whether lease was breached, but whether breach effectively ended franchise relationship. Petroleum Marketing Practices Act, S 101 et seq., 15 U.S.C.A. S 2801 et seq.	Does the Petroleum Marketing Practices Act make a distinction between franchise and franchise relationship?	Franchise - Memo 57 - ANG_64645.docx	ROSS-003294620-ROSS-003294621
Dersch Energies v. Shell Oil Co., 314 F.3d 846	29T+297	A petroleum franchisor cannot circumvent the PMPA's prohibition on conditioning renewal of franchise on franchisee's release or waiver of rights under federal or state law by offering to renew the parties' franchise relationship on terms and conditions identical to those contained in a prior franchise agreement, whether the prior agreement was entered into before or after the enactment of PMPA, nor is a franchisor permitted to use the provision on good faith offers in the normal course of business to do an end run around the release and waiver prohibition. Petroleum Marketing Practices Act, SS 102(b)(3)(A), 105(f)(1), 15 U.S.C.A. SS 2802(B)(3)(A), 2805(f)(1).	When can a franchisor decline to renew a franchise?	018577.docx	LEGALEASE-00159434-LEGALEASE-00159436
City of Roseville v. Local No. 1614, Int'l Ass'n of Firefighters, AFL-CIO, 53 Mich. App. 547	217+1718	A comprehensive hospital service and care certificate issued under Blue Cross is not a "contract of insurance," so that such certificate would not be "property" in controversy between city and union over whether designation of insurance carrier presented an arbitrable dispute.	Does a contract entitling certificate holders to medical services or supplies at free or reduced rates amount to insurance?	019578.docx	LEGALEASE-00159934-LEGALEASE-00159935
Farmers Ins. Exch. v. Enter. Leasing Co., 281 Va. 612	217+1001	Self-insurance does not involve the transfer of a risk of loss, but rather a retention of that risk, making it the antithesis of insurance.	Does self-insurance involve risk of loss?	019596.docx	LEGALEASE-00159587-LEGALEASE-00159588
Twin Hills Golf & Country Club v. Town of Forest Park, 123 P.3d 5	371+3602	The state sales tax is an excise tax rather than a property tax or an income tax. 68 Okl.St.Ann. SS 1351, 1354.	Is the state sales tax an excise tax rather than a property tax or an income tax?	046226.docx	LEGALEASE-00159833-LEGALEASE-00159834
Mississippi Cty. v. City of Osceola, 515 S.W.3d 96	371+3710	An "illegal exaction" is a tax that is either not authorized by law or is contrary to law.	Is illegal exaction a tax that is either not authorized by law or is contrary to law?	046249.docx	LEGALEASE-00159868-LEGALEASE-00159869
Dyno Nobel v. Dir. of Revenue, 75 S.W.3d 240	371+3603	Use tax and sales tax are designed to complement one another.	Are use tax and sales tax designed to complement one another?	Taxation - Memo 1110 - C - VA_64514.docx	ROSS-003278883-ROSS-003278884
Mr. B's v. City of Chicago, 302 Ill. App. 3d 930	371+3602	A "sales tax" is commonly understood to be a tax on the sale of tangible personal property.	"Is a ""sales tax"" commonly understood to be a tax on the sale of tangible personal property?"	Taxation - Memo 1115 - C - VA_64518.docx	ROSS-003294759-ROSS-003294760

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Richard v. Connecticut Elec. Mfg. Co., 200 A.D. 681	83E+623	Time drafts, payable four months after date, and drawn in New York for acceptance and payment in Japan, held "foreign bills of exchange," under Negotiable Instruments Law, SS 210, 213, the drawer of which was discharged by failure to present them for acceptance and to protest them for nonacceptance, under sections 111, 260, and not "inland bills of exchange," which, under section 189, it was not necessary to protest for nonacceptance; section 130, as to presentment for payment not being necessary to charge a person primarily liable, being inapplicable.	What is an inland bill of exchange?	Bills and Notes - Memo 75 - KC_65100.docx	ROSS-003281731-ROSS-003281732
Lienkauf Banking Co. v. Haney, 93 Miss. 613	8.30E+10	A note executed within the state, but negotiable and payable in another state, must be governed by the law of that state, though given for the price of property and reserving title to the property until full payment.	What law governs a note which is payable in another state?	Bills and Notes -Memo 1376- JK_66278.docx	ROSS-003321142-ROSS-003321143
Garner v. State, 858 S.W.2d 656	135H+96	In determining whether retrial after mistrial violates double jeopardy clause, before defendant's failure to object constitutes implied consent to mistrial, defendant must be given adequate opportunity to object to court's motion. U.S.C.A. Const.Amend. 5.	Will consent not be inferred from a silent record?	015891.docx	LEGALEASE-00160747-LEGALEASE-00160748
State v. Scott, 38 Or. App. 465	135H+25	In rem civil forfeiture is not "punishment" for double jeopardy purposes. U.S.C.A. Const.Amend. 5.	"Is an in rem civil forfeiture ""punishment"" for double jeopardy purposes?"	016547.docx	LEGALEASE-00161898-LEGALEASE-00161899
AeroGlobal Capital Mgmt. v. Cirrus Indus., 871 A.2d 428	156+52.10(2)	The facts relied upon to prove waiver must be unequivocal.	Must the facts relied upon to prove waiver be unequivocal?	Estoppel - Memo 241 - C - CSS_65217.docx	ROSS-003292295-ROSS-003292296
Tenneco Inc. v. Enter. Prod. Co., 925 S.W.2d 640	156+52.10(2)	Party's express renunciation of a known right can establish waiver.	Can a party's express renunciation of a known right establish waiver?	Estoppel - Memo 250 - C - CSS_65226.docx	ROSS-003281485-ROSS-003281486
Fudge v. Kelly, 4 Ga. App. 630	315+623	Mere breach of warranty will not authorize a rescission of a horse swap.	Can mere breach of warranty authorize the rescission of a horse swap?	Exchange of Property - Memo 70 - RK_66309.docx	ROSS-003280898-ROSS-003280899
McGuire v. Thompson, 152 Neb. 28	343+1624(7)	An assertion or representation, made by one selling or exchanging personal property at time thereof, as to condition of property, with intent that other party to transaction shall rely thereon, which he does, amounts to "warranty."	Do assertions or representationsrespecting the condition of the thing sold at the time of sale amount to a warranty?	018388.docx	LEGALEASE-00161797-LEGALEASE-00161798
Russell v. Phelps, 73 Vt. 390	315+754	A contract of exchange of property is governed by the same rules of law as a contract of sale, and upon breach thereof an action may be maintained for damages for conversion of the property traded for, as well as an action on the contract itself.	Is a contract of exchange of property governed by the same rules of law as a contract for sale?	018390.docx	LEGALEASE-00161799-LEGALEASE-00161800
People v. Shaw, 27 Mich. App. 325	181+2	There is nothing in statute which makes it a misdemeanor to knowingly use a credit card to obtain or attempt to obtain goods, property or service regardless of whether a forgery is committed, which would preclude defendant, charged with forging a credit card sales slip, from being prosecuted under the general forgery statute since the two statutes do not cover the same subject matter. M.C.L.A. SS 750.219a, 750.248.	Will a specific credit card statute preclude a prosecution or conviction under the general forgery statutes?	018454.docx	LEGALEASE-00161872-LEGALEASE-00161873

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Bay Indus. v. Jefferson Cty., Bd. of Comm'rs of Jefferson Cty., 33 Wash. App. 239	200+77(2)	"Freeholder," for purpose of statutory requirement that petition to vacate county road be signed by ten freeholders residing in vicinity of road, is one who holds either legal or equitable title to real estate. West's RCWA 36.87.020.	Does a freeholder hold title to real estate?	Highways - Memo 441 - RK_66342.docx	ROSS-003319074-ROSS-003319075
Ingram-Clevenger v. Lewis & Clark Cty., 194 Mont. 43	200+75.1	General provision related to county roads stating that board of county commissioners shall discontinue or abandon county roads when freeholders properly petition therefor provides that county commissioner shall abandon county roads when sufficient petition is filed, which, after requisite investigation, is found to be feasible and desirable for use and benefit of public. MCA 7-14-2103(3).	Can freeholders of a road district petition the board of county commissioners for the abandonment of a particular road?	018845.docx	LEGALEASE-00161739-LEGALEASE-00161740
Sec. & Exch. Comm'n v. Variable Annuity Life Ins. Co. of Am., 359 U.S. 65	217+1001	Underwriting of risk is the one earmark of insurance as it has commonly been conceived of in popular understanding and usage.	Can the earmark of insurance be described as the underwriting of risks?	019532.docx	LEGALEASE-00161583-LEGALEASE-00161584
Bordelon Marine v. F/V KENNY BOY, 780 F. Supp. 2d 497	217+1710	Under Louisiana insurance law, act of issuing an insurance policy is distinct from insuring one; an "insurer" is the party to a contract of insurance who assumes the risk and undertakes to indemnify the insured, or pay a certain sum on the happening of a specified contingency, while an "issuer" is one who brings policy into effect for subscribers.	Who is an insurer?	Insurance - Memo 118 - SNJ_65775.docx	ROSS-003293515-ROSS-003293516
Burwell v. Cawood, 43 U.S. 560	289+875	Though generally every partnership is dissolved by the death of one of the partners where the articles of co-partnership do not stipulate otherwise, yet either one may provide, by his will, for the continuance of the partnership after his death, and bind his estate thereby, or only that portion of it already embarked in the partnership.	Can a partnership agreement be continued after the death of a partner if the partnership agreement so provides?	022668.docx	LEGALEASE-00161331-LEGALEASE-00161332
White v. Mazda Motor of Am., 313 Conn. 610	302+38.5	The purpose of the complaint is to limit the issues to be decided at the trial of a case and is calculated to prevent surprise; only those issues raised by the plaintiff in the latest complaint can be tried before the jury.	"Are only those issues, raised by the plaintiffs in the latest complaint, tried before the jury?"	023869.docx	LEGALEASE-00160549-LEGALEASE-00160550
Langford v. Douglas, 359 S.W.2d 951	307A+699	Motion to reinstate an action dismissed for lack of prosecution could be considered as a bill of review, but as a bill of review, it properly did not belong in original cause.	Can a motion to reinstate an action dismissed for lack of prosecution be considered as a bill of review?	039684.docx	LEGALEASE-00160654-LEGALEASE-00160655
William A. White & Sons v. Doelger, 232 N.Y.S.2d 1	307A+699	It is essential on application to vacate dismissal that affidavit of merits be submitted.	Is it essential on an application to vacate dismissal that an affidavit of merits be submitted?	039685.docx	LEGALEASE-00160678-LEGALEASE-00160679
Gallucci v. Phillips & Jacobs, 418 Pa. Super. 306	307A+695	Complaint should not be dismissed where there is a reasonable probability that amendment can be successfully completed.	Should a complaint not be dismissed where there is a reasonable probability that amendment can be successfully completed?	Pretrial Procedure - Memo 11654 - C - KS_65391.docx	ROSS-003284626-ROSS-003284627
Motorcycle Stuff v. Bryant, 182 Ga. App. 554	307A+695	Renewal statute, which allows renewal of action either within original applicable period of limitations or within six months after discontinuance or dismissal, will apply only if original action was itself valid suit. O.C.G.A. S 9-2-61.	Will a renewal statute apply only if original action was itself valid suit?	040331.docx	LEGALEASE-00161096-LEGALEASE-00161097
People v. Sears, 344 Ill. 189	371+2003	Taxes can be levied, assessed, and collected only in mode pointed out by express statute.	Can taxes be levied in the mode other than pointed out by express statute?	046312.docx	LEGALEASE-00160743-LEGALEASE-00160744

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Clausen, 95 Wash. 214	371+2003	The power of taxation is incident of sovereignty, possessed by state without being expressly conferred by people, being a legislative power necessarily following the general power to make laws.	Is the power of taxation an incident of sovereignty?	046329.docx	LEGALEASE-00160843-LEGALEASE-00160844
DiMaria v. State, 12 Ill. Ct. Cl. 1	413+105	The Workmen's Compensation Act does not automatically apply to all employees of the State, but only to those engaged in an employment in a department of the State which is engaged in extra hazardous enterprises, named in the act.	When does a State employee come under the Workmens Compensation Act?	048687.docx	LEGALEASE-00161152-LEGALEASE-00161153
Smith v. Marine Oil Co., 10 La. App. 674	413+105	Only occupations protected by compensation laws are those specifically designated in act or determined hazardous in advance.	What are the only occupations protected by the compensation laws?	048706.docx	LEGALEASE-00161335-LEGALEASE-00161336
Rokowsky v. Gordon, 501 F. Supp. 1114	83E+676	Demand note is payable at place of residence of maker, if no place of payment is named in the note.	Where is a demand note payable if no place of payment is named in the note?	Bills and Notes - Memo 1322 - RK_66225.docx	ROSS-003293761-ROSS-003293762
Lienkauf Banking Co. v. Haney, 93 Miss. 613	8.30E+10	A note executed within the state, but negotiable and payable in another state, must be governed by the law of that state, though given for the price of property and reserving title to the property until full payment.	Will a note made payable in another state be governed by the law of that state?	Bills and Notes - Memo 1342 - RK_66245.docx	ROSS-003323076-ROSS-003323077
Hongkong & Shanghai Banking Corp. v. Lazard-Godchaux Co. of Am., 207 A.D. 174	8.30E+10	The law of the place of payment as to days of grace on a foreign bill of exchange applies.	Which law applies to the foreign bill of exchange?	Bills and Notes - Memo 1347 - RK_66250.docx	ROSS-003296355-ROSS-003296356
State v. York, 252 S.W.3d 245	135H+96	Double jeopardy does not attach when a defendant consents to termination of the proceeding. U.S.C.A. Const.Amend. 5.	Does double jeopardy not attach when a defendant consents to termination of the proceeding?	Double Jeopardy - Memo 124 - C - NC_65903.docx	ROSS-003278448
United States v. Johnson, 396 F.3d 902	156+52.10(2)	A specific dialogue with the judge is not a necessary prerequisite to a valid waiver by defendant if there is other evidence in the record demonstrating a knowing and voluntary waiver; thus, most waivers are effective when set out in writing and signed.	Are most waivers effective when set out in writing and signed?	018149.docx	LEGALEASE-00162236-LEGALEASE-00162238
Hall v. Parks, No. 07-08-0321-CV, 2009 WL 1393280	322H+1131	Evidence was sufficient that a seller waived his contractual right to require his written consent prior to an assignment of an executory contract for the conveyance of real property. The assignee delivered the assignment to the seller and the seller acquiesced to her taking over the contract. The assignee paid the seller for three years and her payments were accepted. During this period, the seller never exercised his rights under the executory contract. Thus, the seller's silence and inaction for such an unreasonable time, coupled with his knowledge of the assignee's interest in the contract, indicated his intention to waive his contractual right to written consent.	"Once a right is waived, is it lost forever?"	Estoppel - Memo 256 - C - CSS_66082.docx	ROSS-003294154-ROSS-003294155
Lonzo v. Town of Marksville, 430 So. 2d 1088	413+1061	Interlocal risk management agency is not insurance company or insurer, "de facto" or otherwise, under Louisiana laws, and such agency could not be held liable to claimant for workers' compensation payments. LSA-R.S. 33:1345.	Is an interlocal risk management agency (IRMA) an insurance company?	019514.docx	LEGALEASE-00162348-LEGALEASE-00162349
Gibbs v. Mayo, 162 N.C. App. 549	217+1001	"Insurance" is a contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.	What is insurance?	019644.docx	LEGALEASE-00162045-LEGALEASE-00162046

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Walsh v. Ellingson Agency, 188 Mont. 367	289+433	Partnership may be created for purchase and sale of real estate for a profit.	Can a partnership be created for the purchase and sale of real estate?	022739.docx	LEGALEASE-00162470-LEGALEASE-00162471
Albright v. Hughes, 107 Ind. App. 651	289+432	A "particular partnership" is one where the parties have united to share benefits of a single individual transaction or enterprise, and particular partnership agreements are not lacking in mutuality or void for want of consideration.	What is a particular partnership?	022743.docx	LEGALEASE-00162524-LEGALEASE-00162525
Estate of Dormaier ex rel. Dormaier v. Columbia Basin Anesthesia, P.L.L.C., 177 Wash. App. 828	302+48	A complaint should adequately alert the defendant of the claim's general nature. CR 8.	Should a complaint adequately alert the defendant of the claim's general nature?	023901.docx	LEGALEASE-00162168-LEGALEASE-00162169
Glazebrook v. Bd. of Sup'rs of Spotsylvania Cty., 266 Va. 550	302+193(5)	A demurrer tests the legal sufficiency of facts alleged in pleadings, not the strength of proof.	Does a demurrer test the legal sufficiency of a pleading?	023923.docx	LEGALEASE-00162440-LEGALEASE-00162441
Eagle Signal Corp. v. Wittig, 766 S.W.2d 390	307A+697	If a trial court reinstates a case when it has no authority to do so, order of reinstatement is void.	"If a trial court reinstates a case when it has no authority to do so, is an order of reinstatement void?"	Pretrial Procedure - Memo 11826 - C - MS_66110.docx	ROSS-003282034-ROSS-003282035
Austin v. Aldermen of Boston, 74 U.S. 694	371+2003	The right of taxation carries with it inherently the power to embarrass and destroy.	Does the right of taxation carry with it inherently the power to embarrass and destroy?	046333.docx	LEGALEASE-00161940-LEGALEASE-00161941
Rozner v. Korshak, 55 Ill. 2d 430	371+2003	Power to regulate and power to tax are distinct powers, but each may be exercised by the imposition of a license fee.	Can a tax be exercised by the imposition of a license fee?	046339.docx	LEGALEASE-00161962-LEGALEASE-00161963
Reed v. Bjornson, 191 Minn. 254	371+2003	Except as limited by Constitution, power of taxation is exhaustive and embraces every conceivable subject of taxation.	Is the constitution a grant of or a limitation upon the power of taxation?	046341.docx	LEGALEASE-00161964-LEGALEASE-00161965
S. S. Kresge Co. v. Bowers, 2 Ohio St. 2d 113	371+2003	Power and right to tax, for any reason, rest with government and give rise to power and right to collect and police the tax.	Does the power to tax rest with the government?	Taxation - Memo 1171 - C - JL_65824.docx	ROSS-003281005-ROSS-003281006
Anderson v. City of Joplin, 646 S.W.2d 727	371+3602	"Sales tax" is assessed against taxpayer as percentage of price of goods.	"Is the ""sales tax"" assessed against taxpayer as percentage of price of goods?"	Taxation - Memo 1216 - C - TJ_66483.docx	ROSS-003281147-ROSS-003281148
Ragsdale v. Dep't of Revenue, 321 Or. 216	371+2006	Intergovernmental tax immunity is based on need to protect each sovereign's governmental operations from undue interference by the other.	What is the purpose of intergovernmental tax immunity?	046649.docx	LEGALEASE-00162544-LEGALEASE-00162545
United States v. Young, 376 A.2d 809	3.77E+12	Specific intent to extort is not necessary element of crime of threatening to injure another person. D.C.C.E. S 22-2307.	Is a specific intent to extort a necessary element of the crime of threatening to injure another person?	046963.docx	LEGALEASE-00162180-LEGALEASE-00162181
Midland Sav. & Loan Co. v. Solomon, 71 Kan. 185	58+49	The fact that the obligor in a bond for the payment of money has secured it by a mortgage on real estate located in a foreign state, where suit is brought to enforce it, does not abrogate the stipulation that the bond shall be payable in and governed by the laws of the state in which it is executed, and the bond must be interpreted by the laws of the state where it is payable.	Does the fact that one of the incidents of the debt consists of a lien on real property in another state change the law that governs a debt?	009145.docx	LEGALEASE-00162805-LEGALEASE-00162806
Jones v. Rider, 60 N.H. 452	83E+822	A note is presumed to be payable where dated, if no other place of payment is mentioned therein.	Is a promissory note presumed to be payable where dated if no other place of payment is mentioned in the note?	Bills and Notes - Memo 1350 - RK_66253.docx	ROSS-003280325
John Hancock Mut. Life Ins. Co. v. Fid.-Baltimore Nat. Bank & Tr. Co., 212 Md. 506	8.30E+10	Generally, law governing a bill or note is the law which the parties to the instrument intend to govern, and, therefore, if bill or note contains express provision that it shall be governed by laws of a particular state, such laws will govern.	Is the law which the parties to the instrument intended the proper law governing a bill or not	Bills and Notes - Memo 1353 - RK.docx	LEGALEASE-00052485-LEGALEASE-00052486

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John Hancock Mut. Life Ins. Co. v. Fid.-Baltimore Nat. Bank & Tr. Co., 212 Md. 506	8.30E+10	Generally, law governing a bill or note is the law which the parties to the instrument intend to govern, and, therefore, if bill or note contains express provision that it shall be governed by laws of a particular state, such laws will govern.	Is the law that the parties intend to govern the proper law governing a bill or note?	Bills and Notes - Memo 1367 - RK.docx	LEGALEASE-00052509-LEGALEASE-00052510
Seymour v. Principi, 245 F.3d 1377	34+104.5	Under statutory scheme for veterans' benefits, disability compensation is generally payable only to veterans, while death benefits are payable to survivors.	Is Veterans Affairs disability Compensation payable only to veterans?	Armed Services - Memo 344 - RK_66865.docx	ROSS-003280407-ROSS-003280408
Pelea v. Nicholson, 497 F.3d 1290	34+102.1	Veteran's spouse, children, or dependent parents may not pursue disability compensation claims of a veteran, even as heirs to the veteran's estate. 38 U.S.C.A. S 1101 et seq.	Can survivors pursue disability compensation claims of a veteran?	008824.docx	LEGALEASE-00163885-LEGALEASE-00163886
U.S. v. Jackson, 904 F. Supp. 118	63+14	There was no circularity in bribery instructions which defined "unlawfully" as "corruptly" and defined "corruptly" as "wrongful design."	Was there circularity in bribery instructions which defined unlawfully as corruptly and defined corruptly as wrongful design?	012578.docx	LEGALEASE-00162905-LEGALEASE-00162906
State ex rel. Core v. Merrifield, 202 W. Va. 100	79+6	A circuit judge can prevent a deputy clerk from being transferred from his courtroom. Const. Art. 8, S 3.	Can a circuit judge prevent a deputy clerk from being transferred from his courtroom?	Clerks of courts - Memo 83 - RK_66905.docx	ROSS-003293149-ROSS-003293150
State ex rel. Core v. Merrifield, 202 W. Va. 100	79+6	Chief judge of county circuit court lacked authority to issue order decreeing that circuit clerk was to treat both courtroom clerks equally as far as rights, benefits, and responsibilities, and further decreeing that such order supersedes "any and/or all employment agreements and/or personnel policy rules currently in existence which may conflict with the provisions contained herein"; order exceeded what was necessary for circuit judge to retain proper control over selection and retention of his courtroom clerk, and judge lacked power to unilaterally formulate employment policy governing all deputy clerks in circuit clerk's office. Const. Art. 8, S 3; Code, 7-7-7.	Do judges have the power to increase the compensation of their courtroom clerks?	013575.docx	LEGALEASE-00164098-LEGALEASE-00164099
Ex parte Hayes, 931 S.W.2d 721	135H+59	For purposes of state constitutional double jeopardy prohibition, jury is not selected as trier of fact, and defendant is not placed in jeopardy of conviction, until jury has been impaneled. Vernon's Ann.Texas Const. Art. 1, S 14.	Will jury be selected as trier of fact until it has been impaneled?	Double Jeopardy - Memo 1098 - C - NS_68003.docx	ROSS-003281714-ROSS-003281715
United States v. Washington, 69 F.3d 401	135H+25	For double jeopardy purposes, jeopardy does not attach whenever government seizes property. U.S.C.A. Const.Amend. 5.	"For double jeopardy purposes, does jeopardy not attach whenever a government seizes property?"	015193.docx	LEGALEASE-00163619-LEGALEASE-00163620
Perez v. State, 266 Ga. App. 82	110+1026.10(1)	Criminal defendant may waive any of the rights secured him by law, including right to appeal. Vernon's Ann.Texas C.C.P. art. 1.14(a).	Can a defendant waive any of the rights secured to him by law?	Estoppel - Memo 298 - C - CSS_66651.docx	ROSS-003280564-ROSS-003280565
Gordon's Const. & Landfill v. Iberia Par. Gov't, 815 So. 2d 991	183+4	Non-exclusive franchise does not confer upon the franchisee the right to be free of competition, and does not prevent the granting of a similar franchise to others. LSA-R.S. 33:4169.1.	Does a non-exclusive franchise include the right to be free from competition?	Franchises - Memo 59 - KNR_66655.docx	ROSS-003279962-ROSS-003279963
Bailey v. Parker, 34 Ohio App. 207	200+177	Automobile driver exceeding speed limit prescribed by law would be guilty of negligence per se. Gen.Code, S 12603 (repealed 1941. See Gen.Code, S 6307-21).	Is exceeding the speed limit negligence per se?	018794.docx	LEGALEASE-00163038-LEGALEASE-00163039
People v. Reese, 491 Mich. 127	203+530	Elements of voluntary manslaughter are included in murder, with murder possessing the single additional element of malice.	Are the elements of voluntary manslaughter included in murder?	Homicide - Memo 185 - RK_66928.docx	ROSS-003280195-ROSS-003280196

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In re Simasko Prod. Co., 52 B.R. 676	260+62.1	"Production payments" are interests in real property which are carved out of lessee's interest; production payments are identical to overriding royalties, except that production payment is limited in amount to stated volume of production or until specified sum has been realized from production.	Is an overriding royalty an interest in real property?	021701.docx	LEGALEASE-00163327- LEGALEASE-00163328
Winston & Strawn LLP v. Law Firm of John Arthur Eaves, 47 F. Supp. 3d 68	302+46	A party has a right to be accurately named in the process and pleadings of the court.	Does a party have the right to be accurately named in the process and pleadings of the court?	023951.docx	LEGALEASE-00163786- LEGALEASE-00163787
Hunter v. Gang, 132 Nev. Adv. Op. 22	30+3206	When reviewing the dismissal of an action for want of prosecution under the district court's inherent authority, in considering the conduct of the parties, the appellate court considers whether the parties behaved in accordance with a reasonable and good-faith belief that no court action was necessary.	Is a justification required for the court to resort to the inherent authority to dismiss an action for want of prosecution?	Pretrial Procedure - Memo 12088 - C - DHA_67063.docx	ROSS-003306883-ROSS-003306884
Compass Dev. v. Blevins, 10 Haw. App. 388	307A+674	Civil procedure rule authorizing defendant to move for dismissal for failure of plaintiff to prosecute does not constitute limitation on inherent power of court to sua sponte order dismissal of case for want of prosecution. Rules Civ.Proc., Rule 41(b).	Do courts have the inherent power to dismiss cases for want of prosecution?	Pretrial Procedure - Memo 12141 - C - VP_66718.docx	ROSS-003291976-ROSS-003291977
Binyon v. State of California, 17 Cal. App. 4th 952	307A+583	Trial courts have inherent authority to dismiss for delay in prosecution.	Do trial courts have inherent authority to dismiss for delay in prosecution?	040964.docx	LEGALEASE-00163278- LEGALEASE-00163279
In re Ryan D., 100 Cal. App. 4th 854	3.77E+06	Criminal-threat statute was not enacted to punish emotional outbursts; it targets only those who try to instill fear in others. West's Ann.Cal.Penal Code S 422.	What was the criminal-threat statute not enacted to punish?	046999.docx	LEGALEASE-00163415- LEGALEASE-00163416
Kral v. Patrico's Transit Mixing Co., 181 Mich. App. 226	413+186	Where workers' compensation benefits are an issue, "economic reality" test is applied in determining whether worker is employee of particular employer.	"Where workers compensation benefits are at issue, what test is applied?"	048765.docx	LEGALEASE-00164148- LEGALEASE-00164149
Prince v. Baton Rouge Gen. Hosp., 449 So. 2d 90	413+186	An employer-employee relationship must exist before provisions of Workers' Compensation Law apply. LSA-R.S. 23:1021 et seq.	What must exist for workers compensation to apply?	048773.docx	LEGALEASE-00164160- LEGALEASE-00164161
In re Citigroup Inc. Sec. Litig., SHS, 2014 WL 3610988	25T+183	If arbitration is invoked in response to lawsuit, it must be done early in the case.	"If arbitration is invoked in response to a lawsuit, should it be done as early as possible?"	008099.docx	LEGALEASE-00165063- LEGALEASE-00165064
Hester v. D.C., 433 F. Supp. 2d 71	135+2	Under District of Columbia law, person's residency does not change by virtue of being incarcerated in another state. D.C. Official Code, 2001 Ed. S 1-1001.02(16)(A, E).	Does a person's residency not change by virtue of being incarcerated in another state?	014573.docx	LEGALEASE-00164212- LEGALEASE-00164213
Thomas v. Eighth Judicial Dist. Court in & for Cty. of Clark, 402 P.3d 619	135H+1	Generally, a state may not put a defendant in jeopardy twice for the same offense. U.S. Const. Amend. 5; Nev. Const. art. 1, S 8.	Can a state put a defendant in jeopardy twice for the same offense?	016363.docx	LEGALEASE-00165127- LEGALEASE-00165128
In re D.W., 202 N.C. App. 624	135H+1	Primary purpose for the prohibition against double jeopardy is to preserve the finality or integrity of judgments, and therefore, any application of the double jeopardy clause depends upon the legitimacy of a defendant's expectation of finality in the judgment. U.S.C.A. Const.Amend. 5.	What is the primary purpose of prohibiting double jeopardy?	016371.docx	LEGALEASE-00165139- LEGALEASE-00165140

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El Marocco Club v. Richardson, 746 A.2d 1228	156+55	The key element of an estoppel is intentionally induced prejudicial reliance.	Is the key element of an estoppel intentionally induced prejudicial reliance?	Estoppel - Memo 307 - C - CSS_67189.docx	ROSS-003279692-ROSS-003279693
Riger v. L & B Ltd. P'ship, 278 Md. 281	233+1859	Montgomery County rent control law confers no property right, protected by Fourteenth Amendment, on holdover tenants; thus tenants were not entitled to relief on theory that the code procedure for landlords to seek extraordinary rent increases involved taking of tenants' "property" without due process of law. U.S.C.A.Const. Amend. 14.	Do tenants have property interests recognized and protected by the due process clause of the Fourteenth Amendment of the Constitution?	021014.docx	LEGALEASE-00164973-LEGALEASE-00164974
Matthews v. Fayette Cty., 233 Ga. 220	302+47	A prayer for process need not be included in the complaint as a prerequisite to valid service of process. Code, SS 81A-104(a), 81A-108(a).	Should a prayer for process be included in the complaint as a prerequisite to valid service of process?	023955.docx	LEGALEASE-00164383-LEGALEASE-00164384
Moore v. Drennan, 269 Or. 189	302+127(1)	A statement of fact in a party's pleadings is an admission that the fact exists as stated.	Is a statement of fact in a party's pleading an admission that the fact exists as stated?	Pleading - Memo 661 - RMM_68616.docx	ROSS-003294232-ROSS-003294233
Meyer v. Frakes, 884 N.W.2d 131	135H+1	A primary purpose of the Double Jeopardy Clause is to preserve the finality of judgments. U.S. Const. Amend. 14.	Is the primary purpose of double jeopardy to preserve the finality of judgements?	041043.docx	LEGALEASE-00164445-LEGALEASE-00164446
Dearmond v. Alaska State Dev. Corp., 376 P.2d 717	371+2010	The phrase "public purpose" within constitutional provision prohibiting the levy of a tax or appropriation of public money except for a public purpose represents a concept which is not capable of precise definition, and is a concept which will change as conditions create changing public needs, and whether a public purpose is being served must be decided as each case arises and in light of particular facts and circumstances of each case. Const. art. 9, S 6.	"Can the phrase public purpose within the meaning of taxation, be given a precise definition?"	046421.docx	LEGALEASE-00164955-LEGALEASE-00164956
Hart v. State, 368 N.C. 122	371+2010	In determining whether a specific appropriation is for a public purpose, as required under state constitution, the term "public purpose" is not to be narrowly construed. West's N.C.G.S.A. Const. Art. 5, S 2(1, 7).	"Should the term public purpose, within the meaning of taxation, be construed too narrowly?"	046425.docx	LEGALEASE-00164953-LEGALEASE-00164954
Index Mines Corp. v. Indus. Comm'n of Colo., 82 Colo. 272	413+361	Statute providing that any company operating business by leasing shall be liable for injuries to lessee's employees cannot be limited to cases where lessees are themselves employees. Workmen's Compensation Act, S 49.	Is an employer liable for compensation if the employer is operating its business by leasing?	048818.docx	LEGALEASE-00164739-LEGALEASE-00164740
State v. Dorman, 225 N.C. App. 599	135H+59	Under both the federal and state constitutions, jeopardy does not attach until, among other things, a jury is impaneled and sworn. U.S.C.A. Const.Amend. 5; West's N.C.G.S.A. Const. Art. 1, S 19.	When is a jeopardy attached under the federal and state constitutions?	014630.docx	LEGALEASE-00165303-LEGALEASE-00165304
Beard v. State, 2004 WL 1103680	135H+30	Enhancement allegations based on defendant's prior convictions did not constitute double jeopardy. U.S.C.A. Const.Amend. 5.	Do enhancement allegations based on defendant prior convictions constitute double jeopardy?	Double Jeopardy - Memo 1192 - C - NE.docx	LEGALEASE-00055106-LEGALEASE-00055107
State v. Swafford, 206 W. Va. 390	135H+95.1	Double jeopardy can be implicated where the jury is discharged before it has arrived at a verdict. U.S.C.A. Const.Amend. 5; Const. Art. 3, S 5.	Can double jeopardy be implicated where the jury is discharged before it has arrived at a verdict?	016043.docx	LEGALEASE-00165791-LEGALEASE-00165792
Sivri v. Strange, 338 F. Supp. 2d 357	135H+107.1	Acquittal terminates jeopardy for double jeopardy purposes, but reversal of a conviction does not. U.S.C.A. Const.Amend. 5.	"Does acquittal terminates jeopardy for double jeopardy purposes, but reversal of a conviction does not?"	016061.docx	LEGALEASE-00165807-LEGALEASE-00165808

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State v. Miles, 160 A.3d 23	135H+1	The Double Jeopardy Clause protects against: (1) a second prosecution for the same offense after acquittal; (2) a second prosecution for the same offense after conviction; and (3) multiple punishments for the same offense. U.S. Const. Amend. 5; N.J. Const. art. 1, par. 11.	What protection does double jeopardy provide under the law?	016080.docx	LEGALEASE-00165827-LEGALEASE-00165828
Bretz v. Crist, 546 F.2d 1336	135H+100.1	Acquittal on a defective indictment is a bar to subsequent prosecution for the same offense. U.S.C.A.Const. Amend. 5.	Is acquittal on a defective indictment a bar to a subsequent prosecution for the same offense?	016132.docx	LEGALEASE-00165879-LEGALEASE-00165881
State v. Nappo, 185 N.J. Super. 600	135H+95.1	Dismissal unrelated to guilt or innocence is functional equivalent of a mistrial.	Is a dismissal unrelated to guilt or innocence a functional equivalent of a mistrial?	Double Jeopardy - Memo 780 - C - NS_67785.docx	ROSS-003307663-ROSS-003307664
Losey v. Frank, 268 F. Supp. 2d 1066	135H+100.1	Under double jeopardy principles, an unreversed verdict results in finality, and thus, acquittals are an absolute bar to appeal or to a new trial, and unreversed convictions are an absolute bar to a new trial. U.S.C.A. Const.Amend. 5.	"Under double jeopardy principles, does an unreversed verdict result in finality?"	Double Jeopardy - Memo 792 - C - KI_67797.docx	ROSS-003294126-ROSS-003294127
Blake v. State, 65 A.3d 557	135H+1	Protection against double jeopardy is fundamental to the criminal justice system; it is found in the Fifth Amendment to the United States Constitution, in the state constitution, and in the state criminal statutes. U.S.C.A. Const.Amend. 5; West's Del.C.Ann. Const. Art. 1, S 8.	Is protection against double jeopardy fundamental to the criminal justice system?	Double Jeopardy - Memo 890 - C - TJ_67679.docx	ROSS-003281101-ROSS-003281102
State v. Johnson, 115 N.J. Super. 6	135H+165	A person convicted of offense and then put on trial for an element of that offense has been put twice in jeopardy for the same accusation.	Can a person be put twice in jeopardy for the same offense?	016528.docx	LEGALEASE-00165348-LEGALEASE-00165349
People v. Davidson, 159 Cal. App. 4th 205	135H+1	No plea of double jeopardy can properly be made where the defendant is tried only once. U.S.C.A. Const.Amend.5; West's Ann.Cal. Const. Art. 1, S 15.	Can a plea of double jeopardy be properly made where the defendant is tried only once?	016549.docx	LEGALEASE-00165367-LEGALEASE-00165368
McGraw v. State, 688 So. 2d 764	135H+59	Double jeopardy right attaches when jury is sworn and empaneled to hear case. U.S.C.A. Const.Amend. 5; Const. Art. 3, S 22.	Does a double jeopardy attach when the jury is sworn?	016622.docx	LEGALEASE-00165439-LEGALEASE-00165440
People v. Haller, 174 Cal. App. 4th 1080	135H+5.1	The double jeopardy clause prohibits successive punishment for the same offense; the policy of the clause therefore circumscribes the relevance of recidivism. U.S.C.A. Const.Amend. 5.	Does the double jeopardy clause prohibit successive punishment for the same offense?	Double Jeopardy - Memo 1148 - C - MS_68233.docx	ROSS-003294650-ROSS-003294651
State v. Mosley, 16 So. 3d 398	135H+30	Double jeopardy principles are inapplicable to sentence enhancement proceedings. U.S.C.A. Const.Amend. 5.	Are double jeopardy principles inapplicable to sentence enhancement proceedings?	014895.docx	LEGALEASE-00166228-LEGALEASE-00166229
State v. Benn, 161 Wash. 2d 256	135H+6	Double jeopardy clauses prohibit the State from prosecuting a defendant for the same offense after acquittal. U.S.C.A. Const.Amend. 5; West's RCWA Const. Art. 1, S 9.	Does an acquittal of an offense terminates jeopardy and prohibits the State from trying the defendant a second time for the same offense?	015689.docx	LEGALEASE-00166411-LEGALEASE-00166412
State v. Prop. Located at No. 70 Oakland St., 727 So. 2d 1240	135H+25	Civil forfeiture of interest in property does not constitute double jeopardy. U.S.C.A. Const.Amend. 5.	Does civil forfeiture of interest in property not constitute double jeopardy?	Double Jeopardy - Memo 535 - C - DHA_68314.docx	ROSS-003283038-ROSS-003283039
Appeal of News Pub. Co., 12 Kan. App. 2d 328	371+2016	Entire matter of taxation is legislative and does not exist apart from statute; legislature is empowered to provide means and agencies for carrying out its responsibilities in matter of taxation.	The entire matter of taxation is legislative and does not exist apart from statute.	Taxation - Memo 1330 - C - NSY.docx	LEGALEASE-00056672-LEGALEASE-00056673
Great Lakes Gas Transmission Co. v. State Treasurer, 140 Mich. App. 635	371+2016	Taxing authority may not be exercised unless expressly conferred by legislature.	Can the taxing authority be exercised without being expressly conferred by legislature?	046586.docx	LEGALEASE-00166615-LEGALEASE-00166616

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Welch v. Town of Ludlow, 136 Vt. 83	371+2016	Legislature, having the power to tax, can confer that power upon towns in such a manner as it pleases; state has ultimate control over methods used for local taxation. 32 V.S.A. S 3431; S 3408, Laws 1965, No. 178.	Do states have ultimate control over methods used for local taxation?	Taxation - Memo 1341 - C - AAK_68535.docx	ROSS-003282161
State v. Harris, 104 P.3d 1250	350H+205	Purpose of statute requiring state to provide notice of intent to seek hard 40 sentence is to make defendant aware of hard 40 prospect so as to be in a position to devise his or her strategy. K.S.A. 21-4624(1).	What purpose does a notice serve under law?	04819.docx	LEGALEASE-00077132-LEGALEASE-00077133
Eckerd Corp. v. J & S, 647 F. Supp. 2d 388	38+1	Assignability of rights may be limited by operation of law or by public policy.	Does the operation of law or public policy limit the assignability of rights?	07364.docx	LEGALEASE-00077635-LEGALEASE-00077636
Eckerd Corp. v. J & S, 647 F. Supp. 2d 388	38+1	Assignability of rights may be limited by operation of law or by public policy.	Does the operation of law or public policy limit the assignability of rights?	06115.docx	LEGALEASE-00077671-LEGALEASE-00077672
Glens Falls Ins. Co. v. Consol. Freightways, 242 Cal. App. 2d 774	48A+144.1(4)	Proof of financial responsibility required by Automobile Financial Responsibility Law may be given by written certificate of insurance carrier authorized to do business in California that motor vehicle liability policy had been issued and is in effect, by deposit with motor vehicle department of \$25,000, or by written certificate of self-insurer holding certificate of self-insurance. West's Ann.Vehicle Code, SS 16055, 16431, 16435, 16436.	Is a certificate of self-insurance a motor vehicle liability policy?	05021.docx	LEGALEASE-00078119-LEGALEASE-00078121
Pomeroy v. Sam Thorpe Min. Co., 37 Ariz. 541	277+12	Notice of unrecorded instrument is equivalent to recording of it, with respect to person having such notice.	"Is a notice of unrecorded instrument equivalent to the recording of it, with respect to the person having such notice? "	05028.docx	LEGALEASE-00078122-LEGALEASE-00078125
Patrick v. Burget, 486 U.S. 94	29T+902	Sherman Act was not intended to restrain state action or official action directed by state. Sherman Anti-Trust Act, S 1 et seq., 15 U.S.C.A. S 1 et seq.	Can the Sherman Act restrain an official action by the state?	06362.docx	LEGALEASE-00078379-LEGALEASE-00078380
Patrick v. Burget, 486 U.S. 94	29T+902	Sherman Act was not intended to restrain state action or official action directed by state. Sherman Anti-Trust Act, S 1 et seq., 15 U.S.C.A. S 1 et seq.	Can the Sherman Act restrain an official action by the state?	05041.docx	LEGALEASE-00078488-LEGALEASE-00078489
Patrick v. Burget, 486 U.S. 94	29T+902	Sherman Act was not intended to restrain state action or official action directed by state. Sherman Anti-Trust Act, S 1 et seq., 15 U.S.C.A. S 1 et seq.	Can the Sherman Act restrain an official action by the state?	05515.docx	LEGALEASE-00078514-LEGALEASE-00078515
Benavidez v. United States, 177 F.3d 927	272+201	Mere allegation of negligence does not turn an intentional tort into negligent conduct.	Can a mere allegation of negligence turn an intentional tort into negligent conduct?	Negligence- Memo 12 - VP.docx	ROSS-003284535-ROSS-003284536
Weigle v. Pifer, 139 F. Supp. 3d 760	272+201	A mere allegation of negligence does not turn an intentional tort into negligent conduct.	Can a mere allegation of negligence turn an intentional tort into negligent conduct?	07407.docx	LEGALEASE-00079077-LEGALEASE-00079078
Benavidez v. United States, 177 F.3d 927	272+201	Mere allegation of negligence does not turn an intentional tort into negligent conduct.	Can a mere allegation of negligence turn an intentional tort into negligent conduct?	06694.docx	LEGALEASE-00079143-LEGALEASE-00079144
Cook v. Winfrey, 975 F. Supp. 1045	237+1.6	Under Illinois conflicts law, when multi-state defamation case arises, applicable law is that of victim's domicile.	What is the law applicable to multi state defamation cases?	05380.docx	LEGALEASE-00080834-LEGALEASE-00080835
Domaingue v. MacDonald, 978 F. Supp. 53	207+4	Under Massachusetts law, essential elements of crime of incest are sexual intercourse with person within degree of consanguinity wherein marriage is prohibited. M.G.L.A. c. 272, S 17.	What are the elements that constitute an incest?	06687.docx	LEGALEASE-00080936-LEGALEASE-00080937
City of Fairhope v. Raddcliffe, 48 Ala. App. 224	386+3	To be a trespass there must be an act of direct force producing injury or damage.	Is direct force producing injury or damage required to constitute a trespass?	05750.docx	LEGALEASE-00082152-LEGALEASE-00082154

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Casstevens v. Smith, 269 S.W.3d 222	366+1	The right of equitable subrogation arises when one pays the debt of another for which the other is primarily liable.	Is the purpose of equitable subrogation to prevent the unjust enrichment of the debtor who was primarily liable?	00836.docx	LEGALEASE-00083975- LEGALEASE-00083976
Hickey v. United States, 64 F.2d 628	209+141(1)	Congress has right to reimpose restrictions on Indian property once freed therefrom. Act June 28, 1906, S 4, 34 Stat. 544; Act March 3, 1921, S 4, 41 Stat. 1250; Act Feb. 27, 1925, S 1, 25 U.S.C.A. S 331 note.	Does the Congress have the right to reimpose restrictions on Indian property once freed?	05113.docx	LEGALEASE-00084203- LEGALEASE-00084205
R.M.W. v. G.M.M., 23 Misc. 3d 713	211+1532	Biological mother's alleged behavior, in appearing at home of biological father, acting verbally abusive, demanding to see their child, grabbing that child, and trying to force child into a car constituted disorderly conduct, as required to establish a family offense in proceedings on petitions brought on behalf, inter alia, of petitioner who lived and had child with biological father and of subject children. McKinney's Family Court Act S 821(1)(a); McKinney's Penal Law S 240.20.	When is a person guilty of disorderly conduct?	05729.docx	LEGALEASE-00085378- LEGALEASE-00085379
Burton v. Hilltop Care Ctr., 813 N.W.2d 250	15A+2202	When determining whether an agency has been clearly vested with the authority to interpret a provision of law, reviewing court does not focus its inquiry on whether the agency does or does not have the broad authority to interpret the act as a whole; instead, each case requires a careful look at the specific language the agency has interpreted as well as the specific duties and authority given to the agency with respect to enforcing particular statutes. I.C.A. S 17A.19(10)(c, l).	Is it required that an agency be vested with express authority to interpret a statute?	05812.docx	LEGALEASE-00089196- LEGALEASE-00089197
Monster Content v. HOMES.COM, 331 B.R. 438	51+2131	Actual knowledge of a bankruptcy proceeding does not supplant the requirement of formal notice for a known creditor. U.S.C.A. Const.Amend. 5; 11 U.S.C.A. S 1141(d).	Will actual knowledge supplant a formal statutory notification?	10838.docx	LEGALEASE-00089245- LEGALEASE-00089246
Pomeroy v. Sam Thorpe Min. Co., 37 Ariz. 541	277+12	Notice of unrecorded instrument is equivalent to recording of it, with respect to person having such notice.	"Is a notice of unrecorded instrument equivalent to the recording of it, with respect to the person having such notice?"	07020.docx	LEGALEASE-00090183- LEGALEASE-00090186
Carraway v. City of Alexandria, 693 So. 2d 314	307A+590.1	Filing of amended petition is "step" which precludes dismissal for abandonment, if amended petition is more than restatement of original petition. LSA-C.C.P. art. 561.	"Is filing of an amended petition a ""step"" which precludes dismissal for abandonment? "	11365.docx	LEGALEASE-00094027- LEGALEASE-00094028
United States v. Hall, 424 F. Supp. 508	63+3	Both giver and taker of bribe may be charged as coconspirators to violate Travel Act. 18 U.S.C.A. S 1952.	Can giver and taker of bribe be charged as co-conspirators to violate Travel Act?	10763.docx	LEGALEASE-00094051- LEGALEASE-00094052
Edwards v. Hanger, 197 So. 3d 993	307A+581	No wrongful motive or intent is necessary to show willful conduct that warrants the dismissal of an action for failure to prosecute. Rules Civ.Proc., Rule 41(b).	Is a wrongful motive or intent necessary to show willful conduct?	10992.docx	LEGALEASE-00094091- LEGALEASE-00094092
Anderson v. Anderson, 196 N.W.2d 727	307A+563	Involuntary dismissal is drastic sanction which should be utilized only in extreme situations.	Is involuntary dismissal a drastic sanction which should be utilized only in extreme situations?	10974.docx	LEGALEASE-00094512- LEGALEASE-00094513
Kubel v. San Marco Floor & Wall, 967 So. 2d 1063	307A+563	Circuit court has the inherent authority to dismiss a complaint for fraud.	Does a circuit court have the inherent authority to dismiss a complaint for fraud?	10004.docx	LEGALEASE-00095274- LEGALEASE-00095275
Cotter v. Dias, 130 A.3d 164	307A+581	A mere delay is not enough to warrant a dismissal for lack of prosecution. Superior Court Rules Civ.Proc., Rule 41(b).	Is a mere delay enough to warrant a dismissal for lack of prosecution?	09852.docx	LEGALEASE-00095730- LEGALEASE-00095731

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
People ex rel. Price v. Illinois Cent. R. Co., 266 Ill. 636	200+127(2)	Under Road and Bridge Law, S 56, S.H.A. ch. 121, S 62, a resolution of the county board directing the county clerk to extend on the tax books road and bridge taxes, is not an approval by the board of the taxes, to render a levy valid.	Does the county clerk have authority to extend the road and bridge tax?	09453.docx	LEGALEASE-00096086- LEGALEASE-00096087
Juengain v. Tervalon, 223 So. 3d 1174	307A+581	An action may be dismissed as abandoned under the abandonment statute only without prejudice. La. Code Civ. Proc. Ann. art. 561.	Can an action be dismissed as abandoned under the abandonment statute only without prejudice?	09778.docx	LEGALEASE-00096410- LEGALEASE-00096411
Richard v. Perkins, 373 F. Supp. 2d 1211	92+4224(4)	Student athletes do not have property or liberty interests protected by the Due Process Clause in participating in intercollegiate athletics. U.S.C.A. Const.Amend. 14.	Do student athletes have a constitutional right to participate in athletic programs?	05287.docx	LEGALEASE-00096658- LEGALEASE-00096659
R.J.W. v. State, 910 So. 2d 357	2.31E+18	For purposes of kidnapping, "restraint" is the actus reus requirement of "abduction," while the specific intent to prevent liberation is the mens rea requirement. V.T.C.A., Penal Code SS 20.01, 20.04.	What is the mens rea of the kidnapping statute?	021000.docx	LEGALEASE-00121837- LEGALEASE-00121838
State v. Lone Star Gas Co., 86 S.W.2d 484	190+14.5(6)	Statutory appeal to determine whether natural gas rate is confiscatory or unreasonable and unjust is merely corrective, and question to be decided by court is not whether court would make same order as was made by Railroad Commission, but is whether commission acted reasonably upon sufficient evidence, and whether any substantial right of party appealing from order had been infringed. Vernon's Ann.Civ.St. art. 6059.	Is ratemaking delegated only to the Railroad Commission?	042236.docx	LEGALEASE-00123053- LEGALEASE-00123054
M.J. Farms, Ltd. v. Exxon Mobil Corp., 2007-2371 (La. 7/1/08)	13+61	A sine qua non for accrual of a cause of action is damages.	Are damages a sine qua non for accrual of a cause of action?	Action - Memo # 43 - C - LK.docx	ROSS-003289168-ROSS- 003289169
United States v. Sum of \$70,990,605, 991 F. Supp. 2d 154	221+342	Even if the domestic court's factual findings must necessarily cast doubt upon the validity of the foreign sovereign's acts, the act of state doctrine is inapplicable if the foreign act of state does not need to be invalidated.	"Under the act of state doctrine, is it not sufficient that a court's factual findings would impugn the foreign state's actions or should the claims call for the invalidation of those actions?"	019662.docx	LEGALEASE-00123465- LEGALEASE-00123466
Petition of New England Tel. & Tel. Co., 115 Vt. 494	317A+111	The function of a public service commission is that of control and not of management, and regulation should not obtrude itself into the place of management.	Is management the function of the Public Service Commission?	042318.docx	LEGALEASE-00125684- LEGALEASE-00125685
State v. Campbell Cty. Sch. Dist., 2001 WY 19	352H+119	Consent or reasonable mistake as to age of victim is no defense to charge of first-degree sexual assault on child. Neb.Rev.St. S 28-319(1)(c).	Is consent a defense to first degree sexual assault on a child?	042924.docx	LEGALEASE-00126220- LEGALEASE-00126221
Haywood v. Ryan, 85 N.J.L. 116	129+108	Act Concerning Disorderly Persons, S 3, applies only to such persons as shall by their act obstruct or interfere with the movement of persons lawfully on the street.	Is a person who obstructs or interferes with person lawfully in streets or public places a disorderly person?	014399.docx	LEGALEASE-00126603- LEGALEASE-00126604
State v. Blake, 882 So. 2d 1187	110+273(4.1)	Felony possession of stolen property was not responsive verdict to charge of simple burglary, and thus, State was required to amend information or file new bill before trial court could accept defendant's guilty plea to possession of stolen property, where burglary did not require proof of stolen property and thus possession of stolen property was not a lesser included offense. LSA-C.Cr.P. arts. 558, 814, subd. A, par. 44.	Does simple burglary require proof of possession of stolen goods?	Burglary - Memo 15 - RK.docx	ROSS-003312890-ROSS- 003312891

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Burleigh v. Hecht, 22 S.D. 301	150+84	The doctrine of laches is applicable only to equitable actions and does not apply to legal actions.	Is the doctrine of laches applicable only to equitable actions and does not apply to legal actions?	006191.docx	LEGALEASE-00128760- LEGALEASE-00128761
Jordan v. Horstmeyer, 152 A.D.3d 1097	30+125	While no appeal lies from an order issued on consent, that rule does not apply where the order differs from or exceeds the consent.	Can an appeal lie from an order issued on consent?	008173.docx	LEGALEASE-00129055- LEGALEASE-00129056
Sutton v. Ohio Dep't of Edn., 80 N.E.3d 1238	316P+871	Educators are bound by the principles found in the Licensure Code of Professional Conduct for Ohio Educators. R.C. S 3319.31.	Are educators bound by the principles found in the Licensure Code?	016964.docx	LEGALEASE-00129249- LEGALEASE-00129250
Fort v. Fort, 104 So. 2d 69	30+14(0.5)	An improvident petition for a writ of certiorari may not be treated as an appeal. F.S.A. S 59.45.	Is an improvident petition for a writ of certiorari treated as an appeal?	008234.docx	LEGALEASE-00129430- LEGALEASE-00129431
City of Norfolk v. Norfolk Cty., 194 Va. 716	307A+501	In absence of statute or rule of court, matter of dismissing an action, or of taking a nonsuit, is controlled by common law.	Does the right of a plaintiff to take a voluntary nonsuit come from common law?	026002.docx	LEGALEASE-00129524- LEGALEASE-00129525
Stein v. Dowling, 867 F. Supp. 2d 1087	92+1186	Members of military are not excluded from protection granted by First Amendment. U.S.C.A. Const.Amend. 1.	Are military members excluded from the protection granted by the First Amendment?	008412.docx	LEGALEASE-00130077- LEGALEASE-00130078
Alabama Power Co. v. Fed. Power Comm'n, 134 F.2d 602	371+2001	"Taxes" are annual compensation paid to government for annual protection and for current support of government and are generally an "expense" and not an "investment".	Is a tax paid to the government?	044994.docx	LEGALEASE-00130541- LEGALEASE-00130542
Perkins v. Carter, 09-673 (La. App. 5 Cir. 12/29/09), 30 So. 3d 862	307A+1	One of principal purposes of pretrial proceeding is to narrow issues of litigation to those which are contested and to dispense with proof on issues which are not contested. LSA-C.C.P. art. 1551.	What is the purpose of pretrial proceedings with regard to contestedissues?	026972.docx	LEGALEASE-00130933- LEGALEASE-00130934
Wachovia SBA Lending v. Kraft, 165 Wash. 2d 481	266+2131(2)	Debtor's wife, against whom creditor had brought deficiency action following foreclosure of promissory note secured by deed of trust on debtor's and wife's home, was not "prevailing party" on basis of grant of creditor's motion for dismissal of action without prejudice, under statute providing for prevailing party attorney fees in action on contract or lease which contains unilateral attorney fee provision, as creditor's voluntary dismissal without prejudice was not a "final judgment" rendered in wife's favor; abrogating, Marassi v. Lau, 71 Wash.App. 912, 859 P.2d 605, Allahyari v. Carter Subaru, 78 Wash.App. 518, 897 P.2d 413. West's RCWA 4.84.330.	Is a voluntary dismissal a final judgment when it leaves the parties as if the action had never been brought?	027780.docx	LEGALEASE-00132161- LEGALEASE-00132162
Wachovia SBA Lending v. Kraft, 165 Wash. 2d 481	307A+517.1	A voluntary dismissal leaves the parties as if the action had never been brought.	Does a voluntary dismissal leave the parties as if the action had never been brought?	027855.docx	LEGALEASE-00132208- LEGALEASE-00132209
Smith v. Colorado Interstate Gas Co., 794 F. Supp. 1035	413+2084	Employee's claim against employer for intentional infliction of emotional distress, arising out of disciplinary measures imposed on her for conducting personal business at work, was barred by exclusive remedy provision of Colorado Worker's Compensation Act. West's C.R.S.A. S 8-40-101 et seq.; C.R.S. 8-52-102(2).	Is compensation under the Worker's Compensation Act intended to be an employee's exclusive remedy against an employer for job-related injuries?	047721.docx	LEGALEASE-00132540- LEGALEASE-00132541
Jaynes v. Com., 276 Va. 443	386+1	"Trespass" is the unauthorized use of or entry onto another's property.	s the unauthorized use of or entry onto another's property a trespass?	047344.docx	LEGALEASE-00133442- LEGALEASE-00133443

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Nantucket Island Associates Ltd. Partnership Unitholders Litigation, 810 A.2d 351	289+1099	Provision in limited partnership agreement exempting general partner from obtaining limited partners' written consent to amendments admitting additional limited partners did not evidence any authority on the part of general partner to unilaterally amend limited partnership agreement to add a new class of preferred limited partnership units having superior rights to existing units; provision was in section of agreement that would have otherwise required general partner to obtain written unanimous consent from all the limited partners, and provision only allowed general partner to admit new limited partners upon consent of a majority of the limited partners and include as consenting those partners who did not affirmatively object.	Can a partnership agreement be amended with the consent of the partners?	022122.docx	LEGALEASE-00133527- LEGALEASE-00133528
State v. Ray, 122 W. Va. 39	211+1658	An indictment for statutory rape was demurrable where it failed to allege that the defendant was over 16 years of age. Code 1931, 61-2-15, 62-9-7.	Does an indictment of statutory rape require to state the defendants age?	043053.docx	LEGALEASE-00133834- LEGALEASE-00133835
Pantano v. State, 124 Nev. 1498	211+1594	Complaint charging defendant with sexual assault of a child under 14 that did not specify the exact date and time of offense was not defective, as time and date were not essential elements of a sexual offense against a minor.	Are time and date essential elements of a sexual offense against a minor?	043045.docx	LEGALEASE-00133852- LEGALEASE-00133853
Fireman's Fund Ins. Co. v. Whirlpool Corp, 2002 WL 228208	307A+485	Unlike other discovery sanctions, an award of expenses for failure to respond to request for admission is not a penalty; instead, it is designed to reimburse reasonable expenses incurred by a party in proving the truth of a requested admission when any trial would have been expedited or shortened if the request had been admitted. West's Ann.Code Civ.Proc. S 2033(o).	"Is an award of expenses for failure to respond to request for admission, a penalty?"	030074.docx	LEGALEASE-00135057- LEGALEASE-00135058
McKissick v. Jackson, 15 Kan. App. 2d 508	307A+725	Awarding expenses in preparing for trial is a reasonable condition for continuance.	Is awarding expenses in preparing for trial a reasonable condition for continuance?	031558.docx	LEGALEASE-00139203- LEGALEASE-00139204
United States v. Kahn, 472 F.2d 272	63+3	Under Pennsylvania law, extortion is not complete defense to bribery charge, but may be relevant on issues of intent and wilfulness.	Is extortion a complete defense to bribery charge?	012035.docx	LEGALEASE-00139396- LEGALEASE-00139397
Berger v. United States, 295 U.S. 78	91+293	Variance is not "material" where indictment charges a conspiracy involving several persons, and the proof establishes conspiracy against only some of them.	Is a variance material when the indictment and proof correspond?	043074.docx	LEGALEASE-00143400- LEGALEASE-00143401
People v. Adams, 19 Cal. App. 4th 412	352H+184	Combination of sperm in rectum plus injuries is circumstantial evidence from which penetration by penis may be inferred for purposes of sodomy statute. West's Ann.Cal.Penal Code S 286(a).	Can penetration be proven by circumstantial evidence?	043094.docx	LEGALEASE-00143434- LEGALEASE-00143435
Roark v. Macoupin Creek Drainage Dist., 316 Ill. App. 3d 835	302+11	A plaintiff is not required to plead evidence in his complaint but is only required to allege ultimate facts.	Is a plaintiff only required to allege ultimate facts in his complaint?	023508.docx	LEGALEASE-00143772- LEGALEASE-00143773
In re WRT Energy Corp., 202 B.R. 579	260+47	Under Louisiana law, oil and gas are not owned by the landowner or any other person until reduced to possession.	Are oil and gas not owned until reduced to possession?	021385.docx	LEGALEASE-00144199- LEGALEASE-00144200
Parker v. Standard Oil Co. of Kan., 250 S.W.2d 671	260+56	A mineral lease is the conveyance of a determinable fee interest in land.	Is a mineral lease the conveyance of a determinable fee interest in land?	021556.docx	LEGALEASE-00147694- LEGALEASE-00147695

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Morgan Guar. Tr. Co. of New York v. Staats, 428 Pa. Super. 479	83E+522	Every holder of negotiable instrument is deemed prima facie holder in due course.	Is a holder of a negotiable instrument is a holder in due course?	Bills and Notes- Memo 648-IS_57888.docx	ROSS-003281047
State Fid. Mortg. Co. v. Varner, 740 S.W.2d 477	38+90	Assignee obtains only right, title and interest of his assignor at time of assignment and thus, may recover only those damages potentially available to assignor.	What rights does an assignee obtain from the assignor at the time of assignment?	010518.docx	LEGALEASE-00148412- LEGALEASE-00148413
Stottlemeyer v. Crampton, 235 Md. 138	200+167	Under right to use public roads, person may use highway for purpose of leading or driving cattle. Code 1957, art. 66C, S 467.	Can cattles be driven in public highways?	019065.docx	LEGALEASE-00148422- LEGALEASE-00148423
Coltharp v. Calcasieu-Marine Nat. Bank of Lake Charles, 199 So. 2d 568	83E+426	Negotiable Instruments Law provision that, where an instrument, payable to bearer, is endorsed specially, it may nevertheless be further negotiated by delivery, has no application to instrument originally payable to order and subsequently converted to bearer paper by a blank endorsement. LSA-R.S. 7:9(5), 7:34, 7:40.	What happens when an instrument payable to bearer is endorsed specially?	Bills and Notes -Memo 977-DB_58712.docx	ROSS-003283100
Gayon v. McCarthy, 252 U.S. 171	221+212	Cr.Code, S 10, as amended by Act May 7, 1917, 18 U.S.C.A. S 22, as to hiring or retaining another to go outside the United States with intent to enlist in the service of a foreign people, uses "retain" as an alternative to "hire," and as meaning something different from the usual employment with payment in money; and one may be retained, in the sense of engaged, to render a service by a verbal promise, and by a prospect for advancement or payment in the future.	Is there a difference between retain and hire?	021732.docx	LEGALEASE-00149700- LEGALEASE-00149701
Bavand v. OneWest Bank, F.S.B., 176 Wash. App. 475	307A+622	Motions to dismiss for failure to state a claim should be granted only sparingly and with care. CR 12(b)(6).	Should motions to dismiss for failure to state a claim be granted only sparingly and with care?	036725.docx	LEGALEASE-00150008- LEGALEASE-00150009
Suhr v. Felter, 589 So.2d 583	48A+12	Broken down vehicle awaiting repair was legally parked on highway shoulder where vehicle did not obstruct flow of traffic, was not hazard to public safety, and was not in area designated as no parking area. LSA-R.S. 32:2, 32:143, 32:144, subd. B, 32:296, 48:342.	Is parking on the shoulder of a highway permitted?	018905.docx	LEGALEASE-00151172- LEGALEASE-00151173
Univ. State Bank v. Gifford-Hill Concrete Corp., 431 S.W.2d 561	302+20	Although theories of recovery on contract and on quantum meruit bases are inconsistent, they may be plead alternatively. Rules of Civil Procedure, rules 47, 48.	Can inconsistent theories of recovery be pled in the alternative?	023684.docx	LEGALEASE-00151260- LEGALEASE-00151261
Curtiss v. Hazen, 56 Conn. 146	83E+341	Revision 1875, omitting the words "according to the custom of merchants and the law relating to inland bills of exchange," from the statute declaring that a note is negotiable which is "payable to a person or his order, or to the bearer," does not render negotiable a note payable to a person simply, and not to his order or to bearer.	Is a note payable to the order of a person or to the bearer negotiable?	009778.docx	LEGALEASE-00154733- LEGALEASE-00154734
Ford Motor Co. v. Kentucky Unemployment Comp. Comm'n, 243 S.W.2d 657	308+92(1)	The powers of an agent must be specifically granted or necessarily inferred, and they cannot be created carte blanche.	Should the powers of an agent be specific or necessarily inferred?	041665.docx	LEGALEASE-00155394- LEGALEASE-00155395

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
FV-I for Morgan Stanley Mortg. Capital Holdings v. Kallevig, 392 P.3d 1248	307A+690	The proper remedy for a lack of standing is dismissal without prejudice.	Is the proper remedy for a lack of standing dismissal without prejudice?	024604.docx	LEGALEASE-00155805-LEGALEASE-00155806
Trent Realty Associates v. First Federal Sav. and Loan Ass'n of Philadelphia, 657 F.2d 29	170B+2447	Limited partnership is an unincorporated association whose citizenship, for diversity purposes, is deemed to be that of persons composing the association.	Is limited partnership a form of unincorporated association?	022615.docx	LEGALEASE-00158629-LEGALEASE-00158630
Spence v. Frantz, 195 Wis. 69	200+80	Abutting landowner has title to center of highway or street subject to public easement.	Does the abutting owner have title to the center of the highway subject to public easement?	018897.docx	LEGALEASE-00161805-LEGALEASE-00161806
John Hancock Mut. Life Ins. Co. v. Fid.-Baltimore Nat. Bank & Tr. Co., 212 Md. 506	8.30E+10	Generally, law governing a bill or note is the law which the parties to the instrument intend to govern, and, therefore, if bill or note contains express provision that it shall be governed by laws of a particular state, such laws will govern.	Is the law that the parties intend to govern the proper law governing a bill or note?	Bills and Notes - Memo 1367 - RK_66268.docx	ROSS-003308615-ROSS-003308616
Johnson v. State, 529 S.W.3d 36	135H+96	Double jeopardy clause does not bar retrial if defendant requests, or consents to, a mistrial. U.S. Const. Amend. 5.	"After a mistrial not requested by defendant, but not objected to by him or her, do state and federal double jeopardy clauses not bar a second trial?"	015328.docx	LEGALEASE-00163213-LEGALEASE-00163214
Seymour v. Principi, 245 F.3d 1377	34+104.5	Under statutory scheme for veterans' benefits, disability compensation is generally payable only to veterans, while death benefits are payable to survivors.	Is Veterans Affairs disability Compensation payable only to veterans?	008822.docx	LEGALEASE-00163883-LEGALEASE-00163884
State v. Smith, 10 R.I. 258	178+14	An indictment charged defendant with willfully and unlawfully having in his possession with intent to sell and exchange, and with having for sale and exchange, certain watered milk. Held, that evidence of the possession of such milk by defendant's servant, with intent to sell or exchange the same, was not sufficient to convict defendant, without proof that the servant, in so possessing the milk, was acting for and in accordance with the will of the defendant, his master.	Will milk be adulterated if certain foreign substance are added ?	Adulteration- Memo 58- _1xljUxHU9ztB6gsyGxQ- zFB0CDEi207nC.doc	ROSS-000000141-ROSS-000000142
Mississippi Cty. v. City of Osceola, 515 S.W.3d 96	371+3710	An "illegal exaction" is a tax that is either not authorized by law or is contrary to law.	Is illegal exaction a tax that is either not authorized by law or is contrary to law?	Taxation - Memo 1108 - C - SN_64512.docx	ROSS-003279129-ROSS-003279130
Anadarko Petroleum Corp. v. Thompson, 94 S.W.3d 550	260+73.5	Lease's habendum clause defines the mineral estate's duration.	Does a lease's habendum clause define the mineral estate's duration?	Mines and Minerals - Memo #299 - C - CSS_57756.docx	ROSS-003279677-ROSS-003279678
Adem v. Des Peres Hosp., 515 S.W.3d 810	307A+690	If a motion court's order and judgment do not specifically state that a claim is dismissed with prejudice, it is deemed to be dismissed without prejudice. Mo. Sup. Ct. R. 67.03.	"If a motion to dismiss did not specifically state it is dismissed with prejudice, is it deemed to be dismissed without prejudice? "	Pretrial Procedure - Memo # 10453 - C - KG_62733.docx	ROSS-003279742-ROSS-003279743
Estate of Dormaier ex rel. Dormaier v. Columbia Basin Anesthesia, P.L.L.C., 177 Wash. App. 828	302+48	A complaint should adequately alert the defendant of the claim's general nature. CR 8.	Should a complaint adequately alert the defendant of the claim's general nature?	Pleading - Memo 621- RMM_66421.docx	ROSS-003280439-ROSS-003280440

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Cornelius v. River Ridge Ranch Landowners Ass'n, 202 P.3d 564	307A+590.1	A unilateral resumption of prosecution should not insulate a plaintiff from dismissal for lack of prosecution.	Should a unilateral resumption of prosecution not insulate a plaintiff from dismissal for lack of prosecution?	Pretrial Procedure - Memo # 7145 - C - VP_58037.docx	ROSS-003280773-ROSS-003280774
Tiffany v. Brenton State Bank of Jefferson, 508 N.W.2d 87	307A+699	Reinstatement of case dismissed for want of prosecution may be mandatory or discretionary; however, both types of reinstatement require proof that counsel exercised reasonable diligence in preparing and pursuing case for trial. Rules Civ.Proc., Rule 215.1.	Can reinstatement of a case dismissed for want of prosecution be mandatory or discretionary?	Pretrial Procedure - Memo # 10861 - C - KI_63881.docx	ROSS-003282132-ROSS-003282133
First Jackson Sec. Corp. v. B. F. Goodrich Co., 253 Miss. 519	308+3(1)	"Agent" is one who stands in shoes of his principal, and his principal's alter ego; word "employee" is not synonymous with "agent".	Can an agent be his principal's alter ego?	Principal and Agent - Memo 581-SB_63597.docx	ROSS-003282174-ROSS-003282175
Ralph v. State Dep't of Nat. Res., 171 Wash. App. 262	13+1	The nature of a claim for relief is determined by the facts alleged in the complaint and as adduced thereunder, and by the relief requested.	How is the nature of a claim for relief determined?	Action - Memo 5 - MS.docx	ROSS-003284481-ROSS-003284482
Osterman v. Baber, 714 N.E.2d 735	366+38	While ordinary negligence will not bar the application of doctrine of equitable subrogation, the remedy will not be allowed where the party is guilty of culpable negligence.	Is equitable subrogation to be given a liberal application?	Subrogation - Memo # 679 - C - NO.docx	ROSS-003284715-ROSS-003284717
In re Am. Exp. Fin. Advisors Sec. Litig., 672 F.3d 113	89+414	Investors' claims against financial services company and financial consultant for breach of fiduciary duty, breach of contract, fraud, and negligent misrepresentation included claims falling outside settlement agreement and release in prior class action binding investors, which contained carve-out for suitability claims outside common course of conduct that was alleged or could have been alleged in class action, and therefore such claims were subject to parties' agreement to arbitrate, where investors alleged that defendants failed to invest their funds in conservative fashion as agreed, that alleged mismanagement did not fall within class action's common course of conduct of steering investors into certain managed programs, investors also alleged cover-up conduct outside scope of release, and investors asserted claims involving conduct that occurred after class period ended.	Can claims which have been released through a settlement agreement be subject to arbitration?	Alternative Dispute Resolution - Memo 566 - RK.docx	ROSS-003285613-ROSS-003285614
KBD & Assocs. v. Great Lakes Foam Techs., 295 Mich. App. 666	308+81(5)	Sales agents are entitled to post-termination commissions for sales they procured during their time at the former employer.	Is an agent entitled to post termination commission for sales they procured?	Principal Agent -Memo 53 - RM.docx	ROSS-003286708-ROSS-003286709
City of Coahoma v. Pub. Util. Comm'n of Texas, 626 S.W.2d 488	405+2096	Term "public utility" used in "grandfather certificate" section of the Public Utilities Regulatory Act includes "retail public utility" as defined in section providing that for purpose of article dealing with certificates of convenience and necessity "retail public utility" means any person, corporation, water supply or sewer service corporation, or municipality operating facilities for providing retail utility service. Vernon's Ann.Civ.St. art. 1446c, SS 1 et seq., 3, 3(b, c), 49 et seq., 53.	Does the term 'public utility' include retail public utility?	Public Utilities - Memo 191 - AM.docx	ROSS-003286749-ROSS-003286750
Fablok Mills v. Cocker Mach. & Foundry Co., 125 N.J. Super. 251	307A+563	Where noncompliance with rules can be remedied by other measures, dismissal ordinarily will not be required. R. 4:23-5.	"Where noncompliance with rules can be remedied by other measures, will dismissal ordinarily not be required? "	Pretrial Procedure - Memo # 7190 - C - KBM.docx	ROSS-003289492-ROSS-003289493

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Keefer v. Spohrer, 168 Kan. 331	13+65	Ordinarily, a plaintiff's right to recover, if any, is to be determined as of time action is commenced.	Is a plaintiffs right to recover to be determined as of the time action is commenced?	Action - Memo # 705 - C - NE.docx	ROSS-003289888-ROSS-003289889
Lewis v. Pub. Serv. Comm'n, 463 So. 2d 227	145+11.3(1)	Public Service Commission's jurisdiction over rate structure does not include jurisdiction over actual rates charged by municipal electric utility. West's F.S.A. S 366.04(2)(b).	"Does the Public Service Commission ("PSC") have jurisdiction over the rate structure of municipal utilities?"	Public Utilities - Memo 217 - AM.docx	ROSS-003290306-ROSS-003290307
United States v. McGregor, 879 F. Supp. 2d 1308	63+1(1)	A campaign contribution transforms into a bribe when it is tied to a specific act; in other words, when there is a quid pro quo or a this for that.	When is a campaign contribution a bribe?	Bribery - Memo #210 - C - JL.docx	ROSS-003290347-ROSS-003290348
Neal v. Bradley, 238 Ark. 714	83E+481	Generally, recordation statutes do not apply to assignments of notes unless specifically so stated.	Do recordation statutes apply to assignment of notes?	Bills and Notes -Memo 423 -DB.docx	ROSS-003290849-ROSS-003290850
State v. Voyles, 691 S.W.2d 452	210+541	An indictment or information must allege all elements of crime intended to be charged and if such elements are missing they cannot be supplied by intendment or implication.	Does an indictment require all elements of the offense alleged?	Sex Offence - Memo 74 - SB.docx	ROSS-003291808-ROSS-003291809
Sei Fujii v. State of California (1952) supra, 38 Cal.2d 718	24+123	All aliens lawfully in the United States have right to work for living in common occupations of community. Nationality Act of 1940, SS 303, 701, as amended, 8 U.S.C.A. SS 703, 1001; Immigration Act of 1924, S 13(c), as amended, 8 U.S.C.A. S 213(c).	Do aliens have a right to work for a living in the common occupations of the community?	"Aliens, Immigration and Citizenship - Memo 66 - RK_64800.docx"	ROSS-003292355-ROSS-003292356
Welcome v. Jennings, 780 P.2d 1039	260+23(3)	In order to preserve exclusive right of possession and extraction of minerals from mining claim, locator must perform annual labor and record annual affidavit of labor. AS 38.05.210.	"Does a person acquire the exclusive right to possess and extract minerals by discovery, location, and recording? "	Mines and Minerals - Memo #321 - C - EB_57772.docx	ROSS-003292711
In re Houston, 409 B.R. 799	366+1	Subrogation is allowed under South Carolina law only upon fact intensive inquiry and a balancing of equity.	Is the decision whether to grant equitable subrogation necessarily a fact intensive inquiry?	Subrogation - Memo 111 - VP C.docx	ROSS-003295986-ROSS-003295987
Univ. State Bank v. Gifford-Hill Concrete Corp., 431 S.W.2d 561	302+20	Although theories of recovery on contract and on quantum meruit bases are inconsistent, they may be plead alternatively. Rules of Civil Procedure, rules 47, 48.	Can inconsistent theories of recovery be pled in the alternative?	Pleading - Memo 508 - RMM_59433.docx	ROSS-003296136-ROSS-003296137
Terry Contracting v. State, 51 Misc. 2d 545	13+61	Cause of action "accrues" when a suit may be maintained thereon.	"Does a cause of action ""accrue"" when a suit may be maintained thereon? "	Action - Memo # 133 - C - CS.docx	ROSS-003296392-ROSS-003296393
Rochester Transit Corp. v. Pub. Serv. Comm'n, 271 A.D. 406	70+12(11)	That Public Service Commission had notice of last service-at-cost contract between city and street railroad and that commission made orders in collateral proceedings after such notice did not constitute implied approval by commission of subsequent contract between city and street railroad so as to preclude commission from investigating rates, since commission cannot divest itself of jurisdiction except in manner provided by Legislature. Public Service Law, S 49, subds. 9, 11.	Is the Public Service Commission a delegate of the Legislature?	Public Utilities - Memo 88 - AM.docx	ROSS-003296652-ROSS-003296654
In re Kizzee-Jordan, 626 F.3d 239	366+27	Texas recognizes three types of subrogation: equitable, contractual, and statutory.	"Are the three types of subrogation contractual, statutory, and equitable?"	Subrogation - Memo 299 - RM C.docx	ROSS-003296839-ROSS-003296840
Scottsdale Ins. Co. v. Addison Ins. Co., 448 S.W.3d 818	366+1	Determination of whether a party has a right to equitable subrogation depends on the facts of the case.	Does the application of equitable subrogation always depend on the facts of a particular case?	Subrogation - Memo 185 - ANG C.docx	ROSS-003296989-ROSS-003296991
City of Fairhope v. Raddcliffe, 48 Ala. App. 224	386+3	To be a trespass there must be an act of direct force producing injury or damage.	Is direct force producing injury or damage required to constitute a trespass?	Trespass -Memo 75 - TH.docx	ROSS-003297217-ROSS-003297219

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Jackson v. Joyner, 309 S.W.3d 910	307A+3	A motion in limine is not subject to the same safeguards as a motion for summary judgment or for partial summary judgment.	Is a motion in limine subject to the same safeguards as a motion for summary judgment or for partial summary judgment?	Pretrial Procedure - Memo # 15 - C - KA.docx	ROSS-003297441-ROSS-003297442
S. Farm Bureau Cas. Ins. Co. v. Tallant, 362 Ark. 17	366+1	"Subrogation" is the substitution of one party for another; the party asserting subrogation is making a demand under the right of another.	Is subrogation the substitution of one party for another?	Subrogation - Memo 270 - ANG C.docx	ROSS-003297619-ROSS-003297620
Energy Transp., Ltd. v. M.V. San Sebastian, 348 F. Supp. 2d 186	25T+139	In interpreting arbitration agreement, as in any other instance of contract interpretation, parties' intentions control, but those intentions are generously construed as to issues of arbitrability.	Are Arbitration agreements creatures of contract law?	Alternative Dispute Resolution - Memo 123 - JS.docx	ROSS-003297682-ROSS-003297684
Fredette v. Town of Southampton, 95 A.D.3d 940	21+13.1	Absence of certificate of conformity for out-of-state affidavit is not fatal defect.	Is the absence of a certificate of conformity for a foreign or out-of-state affidavit a fatal defect?	Affidavits - Memo 11 - ANG.docx	ROSS-003298695-ROSS-003298696
State Bd. of Ret. v. Bulger, 446 Mass. 169	79+1	A clerk of a court is a public officer clothed with official functions of a highly important nature.	Is a clerk of a court a public officer?	Clerks of Court - Memo 43 - RK.docx	ROSS-003299471-ROSS-003299472
Board of County Com'rs of Saguache County v. Flickinger, 687 P.2d 975	118A+392.1	To extent that district court erred in its finding that road passed through private property a distance of approximately three quarters of a mile to one mile, instead of slightly more than six tenths of a mile as shown in centerline survey, such error was clearly harmless in action seeking judicial declaration that road was a public highway acquired through adverse use, in that such error did not affect district court's conclusion that road had become public highway through adverse use by public for at least 20 consecutive years. C.R.S. 43-2-201(1)(c).	When can roads become public highways?	Highways - Memo 6 - RK.docx	ROSS-003299562-ROSS-003299563
Osborne v. Jauregui, 252 S.W.3d 70	366+1	Absent a contractual provision, subrogation is based on equitable principles.	Is subrogation based on equitable principles absent a contractual provision?	Subrogation - Memo # 538 - ANG C.docx	ROSS-003299618-ROSS-003299619
Poole v. William Penn Fire Ins. Co., 264 Ala. 62	366+35	Intentional relinquishment of a known right amounts to a waiver of subrogation rights.	Does intentional relinquishment of a known right amount to a waiver of subrogation rights?	Subrogation - Memo # 1262 - C - SJ.docx	ROSS-003302206-ROSS-003302207
Tax Matrix Techs. v. Wegmans Food Markets, 154 F. Supp. 3d 157	308+48	Under Pennsylvania law, an agency relationship is a fiduciary one, and the agent is subject to a duty of loyalty to act only for the principal's benefit.	Does an agent have a duty to be loyal to his principal?	Principal and Agent - Memo 520 - RK_63978.docx	ROSS-003307206-ROSS-003307207
LVNV Funding v. Mavaega, 527 S.W.3d 128	38+90	An assignee steps into the shoes of its assignor; it acquires no greater rights than those held by the assignor at the time of the assignment.	Can an assignee acquire greater rights than which the assignor has?	Bills and Notes - Memo 1219 - JK_62529.docx	ROSS-003310492-ROSS-003310493
Schwegmann Bank & Tr. Co. of Jefferson v. Falkenberg, 931 F.2d 1081	83E+533	In deciding whether holder of negotiable instrument is holder in due course, under Louisiana law, court must examine facts surrounding transaction to determine whether holder took note in subjective good faith. LSA-R.S. 10:3-302.	Can a party acquire holder in due course status by becoming a holder of a negotiable instrument?	Bills And Notes -Memo 55- AM_64294.docx	ROSS-003312195-ROSS-003312196
N. Star Water Logic v. Ecolotron, 486 S.W.3d 102	307A+501	The plaintiff's right to take a nonsuit is unqualified and absolute as long as the defendant has not made a claim for affirmative relief. Tex. R. Civ. P. 162.	Is the right to a nonsuit absolute?	Pretrial Procedure - Memo # 1321 - C - KA.docx	ROSS-003313951-ROSS-003313952
Wyoming Sawmills Inc. v. U.S. Forest Serv., 383 F.3d 1241	149E+679	United States Forest Service's action will be reversed only if it is arbitrary, capricious, otherwise not in accordance with the law, or not supported by substantial evidence.	What is the standard of review for reviewing the Forest Service's action?	Woods and Forest - Memo 40 - RK.docx	ROSS-003315275-ROSS-003315276

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Fedewa v. J.P. Morgan Chase Bank, Nat. Ass'n, 921 F. Supp. 2d 504	8.30E+282	Under Virginia law, notes are negotiable instruments that are freely transferable without impairment of the rights to subsequent holders.	Are notes negotiable instruments?	Bills and Notes - Memo 916 - RK_60712.docx	ROSS-003320279-ROSS-003320280
Atlanta Int'l Ins. Co. v. Bell, 438 Mich. 512	366+1	"Equitable subrogation" is legal fiction that permits one party to stand in shoes of another.	Is equitable subrogation a legal fiction?	Subrogation - Memo 242 - VG C.docx	ROSS-003324729-ROSS-003324730
Washington Mut. Bank v. Chiappetta, 584 F. Supp. 2d 961	366+1	Unjust enrichment under Ohio law is part of the doctrine of equitable subrogation, not a separate doctrine.	Is unjust enrichment part of the doctrine of equitable subrogation?	Subrogation - Memo 395 - RM C.docx	ROSS-003325625-ROSS-003325626
Bel Air & Briney v. City of Kent, 190 Wash. App. 166	366+1	Subrogation is an equitable remedy, and is founded in the facts and circumstances of each particular case.	Is equitable subrogation founded in the facts and circumstances of each particular case?	Subrogation - Memo 142 - VP C.docx	ROSS-003325731-ROSS-003325732
Raines v. Com., 379 S.W.3d 152	207+5	Age of victim was not element of crime of incest, and statute was properly applied to defendant who engaged in sexual relations with his adult stepdaughter; primary element for incest was relationship of the parties, "relationship of stepparent and stepchild" was specifically set forth in incest statute as prohibited relationship, and no relationship listed in statute had an age constraint. KRS 530.020.	Is victim's age as an element of the crime of incest?	Incest - Memo 35 - RM.docx	ROSS-003329309-ROSS-003329310
Mein v. U. S. Car Testing Co., 115 Ohio App. 145	106+13.5(14)	A so-called "maintenance contract" whereby defendant agreed to maintain listed parts in good repair, "including both labor and parts for a period of one year", indemnifying against loss or damage resulting from perils outside and unrelated to defects in any parts sold and restricting liability by excluding certain named perils was a contract of "insurance" so that Kansas court had jurisdiction over defendant under Kansas statute providing for obtaining jurisdiction over and service upon those engaging in insurance business in state. G.S.Kan.1949, 40-1102(m).	What is the difference between a warranty and insurance?	000194.docx	LEGALEASE-00115604-LEGALEASE-00115605
Flowers v. Bedford Twp., 304 Mich. App. 661	315+147	A "life estate" gives the holder the right to possess, control, and enjoy the property during the holder's lifetime.	What interest vests with the holder of a life estate?	Life Estates - Memo 5 - RM.docx	ROSS-003296625-ROSS-003296626
Life Ins. Co. of Georgia v. Smith, 719 So. 2d 797	157+129(5)	Evidence of forgeries by life insurance agent to obtain funds from beneficiary for investment and to inflate sales account were relevant as other wrongs or acts and admissible in suit by employees alleging fraud in sale of life insurance by representing it as cafeteria retirement program or savings plan, even though the alleged other wrongs occurred after the alleged fraud; insurer defended on ground that written material disclosed that employees were purchasing insurance, employees claimed forgery of their signatures on these documents, and forgery and concealment of critical portions of documents were common elements in the transactions. Rules of Evid., Rule 404(b).	Is forgery a species of fraud?	Forgery - Memo 13 - RM.docx	LEGALEASE-00000489-LEGALEASE-00000490
Guthrie v. Nat'l Advert. Co., 556 N.E.2d 337	277+2	Notice is actual where the purchaser is aware of the adverse claim or title or has such information as would lead to knowledge.	When can a notice be inferred as an actual notice?	10829.docx	LEGALEASE-00089307-LEGALEASE-00089308

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Jules-Wallace & Co. v. R.A. Mgmt., 148 Misc. 180	38+13	Assignment of wages to be earned in future, under employment contract not then existing, held void as against public policy, or at least unenforceable in law action against employer.	How is the validity of wage assignments to be tested?	07343.docx	LEGALEASE-00077586- LEGALEASE-00077587
Minor v. Minor, 2008 WL 582503	20+116(7)	Evidence on counterclaim to quiet title by way of adverse possession, in action for summary ejectment, was insufficient to warrant giving counterclaimant's requested jury instruction on adverse possession of an identified portion of property; counterclaimant did not plead adverse possession of specified portion of tract in her counterclaim and presented no evidence at trial that she adversely possessed only identified portion thereof, only known and visible line or boundary mentioned in claimant's evidence did not correspond to portion of property claimed, and counterclaimant claimed adverse possession of entire parcel at every opportunity during trial. West's N.C.G.S.A. S 1-40.	Do the Courts recognize claims for adverse possession of an identified portion of property owned by another?	003868.docx	LEGALEASE-00115864- LEGALEASE-00115865
Weihing v. Dodsworth, 100 Conn. App. 29	21+17	Affidavits are insufficient to determine the facts unless they disclose that no genuine issue as to a material fact exists.	Are affidavits insufficient to determine facts?	003872.docx	LEGALEASE-00115935- LEGALEASE-00115936
Costanzo v. Costanzo, 248 N.J. Super. 116	38+4	Any "specific thing," debt, or chose in action may be subject of assignment, but that which is not in existence or cannot be identified cannot be assigned.	Can any specific thing be assigned to effectuate a legal assignment?	Assignments - Memo 17 - AKA.docx	LEGALEASE-00000899- LEGALEASE-00000900
McIntosh v. State, 23 Ga. App. 513	181+10	The figures in a check do not control the words in its body denoting the sum called for in determining the legal effect, and are not a material part of instrument, so that their alteration by raising the figures is not a basis for a prosecution for forgery.	Does alteration of the figures on a negotiable instrument constitute forgery?	003933.docx	LEGALEASE-00115932- LEGALEASE-00115934
Tyson v. Masten Lumber & Supply, 44 Md. App. 293	277+12	Actual knowledge may supplant formal statutory notification.	Will actual knowledge supplant a formal statutory notification?	Notice -Memo 23 - ANG_62201.docx	ROSS-003282550-ROSS- 003282551
Kershaw v. Burns, 91 S.C. 129	141+3(2)	A right of way with neither of its termini on claimant's premises, not essentially necessary to enjoyment thereof, held not appurtenant, but in gross.	"Is a right of way, in gross, incapable of being transferred?"	Assignments - Memo 38 - JS.docx	LEGALEASE-00001183- LEGALEASE-00001184
Chapman v. Chapman, 526 So.2d 131	315+155	Appropriate remedy for life tenants' failure to pay taxes, which resulted in waste, was not an acceleration of vested remaindermen's interest in the real property but, rather, appointment of receiver to collect rents and apply them to discharged tax indebtedness.	Can a life tenant who commits an unreasonable act which results in damage to the corpus of the property or the remaindermen be liable for damages?	004248.docx	LEGALEASE-00115989- LEGALEASE-00115991
AT & T Techs. v. Commc'ns Workers of Am., 475 U.S. 643	25T+112	Arbitration is matter of contract and party cannot be required to submit to arbitration any dispute which he has not agreed so to submit.	Can parties submit to arbitrate any dispute that they have not agreed to arbitrate?	003712.docx	LEGALEASE-00116077- LEGALEASE-00116079
Bazemore v. Jefferson Capital Sys., 827 F.3d 1325	25T+112	Absent agreement to arbitrate dispute, court cannot compel parties to settle their dispute in arbitral forum. 9 U.S.C.A. S 1 et seq.	Can a court compel arbitration in the absence of an arbitration agreement?	003722.docx	LEGALEASE-00116089- LEGALEASE-00116091

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States Aviation Underwriters v. Pilatus Bus. Aircraft, LTD, 582 F.3d 1131	16+17.1	To determine whether general character of activity giving rise to incident was substantially related to traditional maritime activity, as required to warrant admiralty jurisdiction, court must determine whether a tortfeasor's activity, commercial or noncommercial, on navigable waters is so closely related to activity traditionally subject to admiralty law that the reasons for applying special admiralty rules would apply in the suit at hand; if activities of any one putative tortfeasor are substantially related to a traditional maritime activity, this prong of the jurisdictional test is satisfied.	Can admiralty jurisdiction be invoked for aviation torts?	004049.docx	LEGALEASE-00116118- LEGALEASE-00116119
Kevin Messina v. John A. White (In re Kevin Messina), 574 F.3d 119	354+209(3)	In considering a vessel owner's petition for exoneration or limitation of liability under Limitation of Liability Act, the district court will normally be required to conduct a two-step inquiry: first, it must determine whether the accident was caused by conduct that is actionable, for if there was no fault or negligence for the shipowner to be privy to or have knowledge of within meaning of the Act, there is no liability to be limited and the owner would then be entitled to exoneration; if the claimant carries his burden of proving the accident was caused by actionable conduct, the owner then has the burden of proving that the actionable conduct or condition was without his privity or knowledge. 46 U.S.C.A. S 30505(a, b).	"In maritime law, does privity and knowledge mean that a shipowner knew or should have known that a certain condition existed?"	004051.docx	LEGALEASE-00116127- LEGALEASE-00116129
Canton Port Servs. v. M/V Snow Bird, 690 F. Supp. 2d 405	252+23	Docking services provided to vessel at its owner's order were "necessaries" under Federal Maritime Liens Act (FMLA), and thus port services company automatically acquired maritime lien on vessel from time it began providing docking services, regardless of whether owner received invoices from company or whether he offered to settle his debt, where owner never forwarded check or otherwise paid company any fees, and never posted any security following vessel's arrest. 46 U.S.C.A. SS 31301(4), 31342.	How can one establish a maritime lien on a vessel?	06309.docx	LEGALEASE-00078369- LEGALEASE-00078371
In re Holt, 28 A.D.2d 201	38+18	A right to future performance under an obligation existing at time of assignment is an "existing right" as opposed to a "future right".	Can a right to future performance of an obligation be assigned?	Assignments - Memo 42 - JS.docx	ROSS-003284939-ROSS- 003284940
Hoye v. Like, 958 S.W.2d 234	50+1	Even though bailment contract may arise by implication, it cannot arise from nothing, nor from mere conjecture or possibility.	When does a bailment arise?	07378.docx	LEGALEASE-00079079- LEGALEASE-00079080
Pringle v. Builders Transp., 298 S.C. 494	413+1165	Where provisions of Administrative Procedures Act and Workers' Compensation Act conflict, APA controls. Code 1976, SS 1-23-310 et seq., 42-1-10 et seq., 42-17-60.	"When there is a conflict between the Administrative Procedure Act and the Workers' Compensation Act, which shall prevail over the other?"	004039.docx	LEGALEASE-00116360- LEGALEASE-00116361
Consumers Power Co. v. Pub. Serv. Comm'n, 189 Mich. App. 151	15A+1104	Generally, statute which grants power to administrative agency is to be strictly construed; administrative authority must be affirmatively or plainly granted, for doubtful power does not exist.	Is strict construction applied to statutes that grant power to administrative agencies?	004281.docx	LEGALEASE-00116358- LEGALEASE-00116359
State v. Greathouse, 113 Wash. App. 889	146+1	Unlike theft by taking, which requires a trespass in the taking, theft by embezzlement involves a violation of trust. West's RCWA 9A.56.010(19)(b), 9A.56.020(1)(a).	Does embezzlement involve violation of trust?	004309.docx	LEGALEASE-00116503- LEGALEASE-00116504
United States v. Evans, 572 F.2d 455	146+4	In prosecution for embezzling or stealing public money, property, or records, government must establish that it suffered some actual property loss. 18 U.S.C.A. S 641.	Is it essential to establish some property loss by the government in a violation of 18 U.S.C.A s 641?	004315.docx	LEGALEASE-00116555- LEGALEASE-00116556

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In re Acequia, 34 F.3d 800	253+1081	Under Idaho law, one spouse is liable for tort of the other only if spouse authorizes tortious act and act furthers community purpose.	Is a spouse liable for the torts of the other spouse?	Marriage and Cohabitation - Memo 16 - AKA.doc	LEGALEASE-00002205-LEGALEASE-00002206
Arsenal Coal Co. v. Com., Dep't of Env'tl. Res., 505 Pa. 198	260+92.17	Preenforcement review is not within authority of Environmental Hearing Board, as statutory remedy prescribed by state Surface Mining Conservation and Reclamation Act contemplates resort to Environmental Hearing Board upon Department action; it is only within context of appeal from Department of Environmental Resources action upon application of allegedly illegal regulation, that Board enjoys ancillary power to rule on validity of regulations. 52 P.S. S 1396.4(b); 71 P.S. SS 510-21, 510-21(a, c); 2 Pa.C.S.A. S 703(a).	Is pre-enforcement review within the authority of the Environmental Hearing Board (EHB)?	Environmental Law - Memo 52 - AKA.doc	ROSS-003288113-ROSS-003288114
Lingle v. Chevron U.S.A. Inc., 544 U.S. 528	148+70	Takings Clause does not prohibit taking of private property, but instead places condition on exercise of that power; in other words, it is designed not to limit governmental interference with property rights per se, but rather to secure compensation in event of otherwise proper interference amounting to a taking. U.S.C.A. Const.Amend. 5.	What purpose does the Takings Clause serve?	Eminent Domain - Memo 1 - AKA.doc	LEGALEASE-00002452-LEGALEASE-00002453
Lindsey v. Lindsey, 392 P.3d 968	253+422	Married persons have a right to separately own and enjoy property, and that right does not dissipate upon divorce.	Can a married person own separate property during marriage?	004792.docx	LEGALEASE-00116735-LEGALEASE-00116736
Bramlett v. Overnite Transp., 102 N.C. App. 77	50+12	North Carolina recognizes three types of bailments: bailments for sole benefit of bailor; bailments for sole benefit of bailee, or gratuitous bailments; and bailments for mutual benefit of both parties.	What are the different types of bailments?	004625.docx	LEGALEASE-00116905-LEGALEASE-00116906
Hadfield v. Gilchrist, 343 S.C. 88	50+2	A "gratuitous bailment" is, by definition, one in which the transfer of possession or use of the bailed property is without compensation.	What is a gratuitous bailment?	Bailment - Memo 24 - ANG.docx	ROSS-003295277-ROSS-003295278
Am. Petroleum Inst. v. E.P.A., 706 F.3d 474	1.49E+275	Environmental Protection Agency's (EPA) 2012 projection of cellulosic biofuel production in connection with its promulgation of renewable fuel standards (RFS) was in excess of the agency's statutory authority under Clean Air Act (CAA); neither statutory text nor the general structure of the RFS program supported EPA's decision to adopt a methodology in which the risk of overestimation was set deliberately to outweigh the risk of underestimation. Clean Air Act, S 211(o)(7)(D)(i), 42 U.S.C.A. S 7545(o)(7)(D)(i).	Can the Environmental Protection Agency (EPA) rely on its general authority to make rules to carry on functions when a specific statutory directive defines its relevant functions in a particular area?	Environmental Law - Memo 55 - AKA.doc	LEGALEASE-00002841-LEGALEASE-00002842
Melvin v. United States, 963 F. Supp. 1052	50+2	Under Kansas law, "bailment for mutual benefit" arises whenever it appears that both parties receive benefit from transaction; it is not necessary for bailee to receive compensation from bailor, so long as bailment is incident of business from which bailee makes a profit.	When does a bailment for mutual benefit arise?	Bailment - Memo 45 - RK.docx	ROSS-003283497-ROSS-003283498
Command Cinema Corp. v. VCA Labs, 464 F. Supp. 2d 191	50+16	Any misdelivery of a bailed good, whether made in a good faith or not, results in liability of the bailee for conversion under New York law.	Does the misdelivery of goods constitute conversion?	Bailment - Memo 48 - RK.docx	ROSS-003324149-ROSS-003324150

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United States v. Dial, 757 F.2d 163	184+25	It is fraud to impose enormous risk of loss on one's employer through deliberate misrepresentation even if risk does not materialize.	Can an act come under the offence of embezzlement if the risk did not materialize?	Embezzlement - Memo 34 - RK.docx	ROSS-003288518-ROSS-003288519
People v. Mahumed, 381 Ill. 81	164T+10	Sending letters through the mails threatening to expose one's past for the purpose of extorting money is "blackmail".	Are the terms blackmail and extortion synonymous?	005045.docx	LEGALEASE-00117109-LEGALEASE-00117111
Rader v. ShareBuilder Corp., 772 F. Supp. 2d 599	379+436	Blackmail and extortion are, in almost all jurisdictions, crimes, not civil causes of action.	Can extortion and blackmail create civil causes of action?	005052.docx	LEGALEASE-00117112-LEGALEASE-00117114
Viacom Int'l Inc. v. Icahn, 747 F. Supp. 205	164T+19	Hobbs Act extortion violation has two elements: wrongful means and wrongful objective. 18 U.S.C.A. S 1951(b)(2).	What are the elements which constitute a violation under the Hobbs Act?	Extortion - Memo 4 - RK.docx	LEGALEASE-00003001-LEGALEASE-00003003
Ostroff v. Alterra Healthcare Corp., 433 F. Supp. 2d 538	25T+112	Court cannot direct parties to arbitration unless agreement to arbitrate is valid.	Can a court direct parties to arbitrate if the agreement to arbitrate is not valid?	Alternative Dispute Resolution - Memo 115 - JS.docx	ROSS-003297898-ROSS-003297900
Marcus v. Masucci, 118 F. Supp. 2d 453	25T+133(1)	In determining whether there is a contractual provision mandating arbitration of dispute, courts are to employ ordinary contract principles.	Is it determined based on ordinary contract principles whether parties have agreed to arbitrate?	004878.docx	LEGALEASE-00117138-LEGALEASE-00117140
Reichhold Chemicals v. Illinois Pollution Control Bd., 204 Ill. App. 3d 674	149E+420	Illinois Environmental Protection Agency had no authority to reconsider or modify its earlier decision denying application for permit to operate polyester resin manufacturing plant based on possible violation of Environmental Protection Act, and State Pollution Control Board had statutory duty to review permit denial within 35 days of applicant's filing of petition for review after Agency did not reply to its letter requesting reconsideration of denial and erred in dismissing that petition on ground that request for reconsideration was pending with Agency. S.H.A. ch. 1111/212, PP 1005(d), 1039(a).	Is the Pollution Control Board empowered with the authority to hear rehearing requests?	005037.docx	LEGALEASE-00117221-LEGALEASE-00117223
In re Masonite Corp., 997 S.W.2d 194	401+1.5	Plaintiff has the first choice to fix venue in a proper county by filing the suit in the county of his choice.	Is the plaintiff or the defendant given the first choice of venue?	005177.docx	LEGALEASE-00117262-LEGALEASE-00117264
Dexheimer v. CDS, 104 Wash. App. 464	233+1110	Under the common law, a landlord's duty with respect to a latent defect is only to warn of its existence; there is no common law duty to repair.	Is the landlord under a common law duty to repair rental property?	Landlord and Tenant - Memo 06 - RK.docx	LEGALEASE-00003709-LEGALEASE-00003710
Robertson v. Southwestern Bell Yellow Pages, 190 S.W.3d 899	237+21	Statements about very large groups generally will not support an action for defamation.	Can statements against large groups of people support an action for defamation?	Libel and Slander- Memo 48 - RK.docx	ROSS-003297238-ROSS-003297239
In re Masonite Corp., 997 S.W.2d 194	250+4(4)	Trial court's abuse of its discretion in ordering transfer of venue for claims of non-resident plaintiffs to their counties of residence on its own motion, instead of granting defendants' motion to transfer venue of such claims to proper county of defendants' choice, presented exceptional circumstances rendering appellate remedy inadequate and thus warranting mandamus relief, where effect of trial court's disregard for parties' pleadings, facts, and law would be that claims of hundreds of plaintiffs would be tried in multiple improper forums, all with automatic reversible error.	Does the plaintiff get second choice of venue?	005180.docx	LEGALEASE-00117265-LEGALEASE-00117266

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Hall v. Citizens Ins. Co. of Am., 141 Mich. App. 676	237+119	For purposes of element of defamation action requiring proof of "special harm" or "special injury" caused by publication, "special harm" or "special injury" merely refers to actual harm resulting from defamatory statement; "actual harm" includes not only out-of-pocket losses, but also damages for mental and emotional suffering.	What constitutes actual harm in the context of defamation?	000550.docx	LEGALEASE-00117327- LEGALEASE-00117328
Biondo v. Biondo, 769 So. 2d 94	253+953	By matrimonial agreement, wife and husband could have provided for contribution to the expenses of the marriage, for apportionment of community property according to fixed shares, or for the reservation of fruits as separate property, and they could have provided that their existing or future property would be subject to something other than the legal regime. LSA-C.C. art. 2330.	How is a property classified as separate and community?	Marriage and Cohabitation- Memo 51 - JS.docx	LEGALEASE-00003900- LEGALEASE-00003901
Turner v. Mullins, 162 S.W.3d 356	315+22	In determining the ownership of property, courts apply the law of the jurisdiction in which the land is located.	What law is applied in determining the ownership of a property?	Property - Memo 19 - JS.docx	ROSS-003311200-ROSS- 003311201
Johnson v. Paynesville Farmers Union Co-op. Oil Co., 817 N.W.2d 693	386+14	Entry upon the land that interferes with the landowner's right to exclusive possession results in trespass whether that interference was reasonably foreseeable or whether it caused damages.	Does the right to exclusive possession of the property have an important role in the tort of trespass?	Trespass - Memo 20 - RK.docx	LEGALEASE-00004136- LEGALEASE-00004138
Aguilar v. Trujillo, 162 S.W.3d 839	386+12	A trespass can be either by entry of a person on another's land or by causing or permitting a thing to cross the boundary of the premises.	Are actual damages an element of the tort of trespass?	Trespass - Memo 16 - RK.docx	LEGALEASE-00004243- LEGALEASE-00004244
People v. Williams, 128 Ill. App. 3d 384	207+1	As defined by statute, "sexual intercourse occurs when there is any penetration of the female sex organ by the male sex organ," and it is thus obvious that no female is physically or biologically able to perform sexual intercourse with another female no matter whether the relationship is one of consanguinity or affinity; to equate the father-daughter sexual relationship with a mother-son sexual relationship as similar acts between parents and a designated child ignores the differences between those acts, physically, psychologically, naturally, historically, and statistically. S.H.A. ch. 38, S 11-1.	How is sexual intercourse defined?	Incest - Memo 13 - TH.docx	LEGALEASE-00004394- LEGALEASE-00004395
State v. Haston, 64 Ariz. 72	207+6	Proof of an emission is not essential to show a completed sexual offense of rape, adultery, incest, or other carnal knowledge. Code 1939, SS 43-405, 43-4901, 63-107 (A.R.S. SS 13-471, 13-611 to 13-614, 25-101).	Is committing the crime of incest the same as committing the crime of rape?	000455.docx	LEGALEASE-00117720- LEGALEASE-00117721
State v. Allen, 125 Ariz. 158	207+5	In regard to offense of sexual abuse in the third degree, if the requisite degree of consanguinity or affinity exists between defendant and victim, no exception is made merely because half-blood relationships are involved. I.C.A. SS 4.1, subd. 23, 709.4, subd. 4.	Are half-blood relationships included within the incest prohibition?	000463.docx	LEGALEASE-00117703- LEGALEASE-00117705
People v. Womack, 167 Cal. App. 2d 130	207+5	Prohibitions against incestuous relationships apply to designated near relatives, whether by the half blood or the whole blood. West's Ann.Pen.Code, S 285; West's Ann.Civ.Code, S 59.	Are half-blood relationships included within the incest prohibition?	Incest - Memo 21 - TH.docx	LEGALEASE-00004407- LEGALEASE-00004409

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Gordon v. State, 327 Ga. App. 774	207+2	Half-blood relationship between defendant, the uncle, and child complainant, the niece, was not one expressly enumerated by the incest statute such that the sexual relationship between them could not be classified as incestuous, thus precluding conviction for incest; in recognizing the well-settled principles of statutory construction providing that the expression of one thing implies the exclusion of another, and that, if some things are expressly mentioned, the inference is stronger that those not mentioned were intended to be excluded, the Court of Appeals found that the incest statute's specific reference to a brother and sister of the half blood necessarily evinced an intent to exclude other, unmentioned half-blood relationships. West's Ga.Code Ann. S 16-6-22.	Is an uncle or aunt engaging in sexual intercourse with a nephew or niece guilty of incest?	Incest - Memo 6 - TH.docx	LEGALEASE-00004410- LEGALEASE-00004411
Villas at Parkside Partners v. City of Farmers Branch, Tex., 675 F.3d 802	268+111(4)	General severability clause could not be applied to revise and leave intact any remaining parts of city ordinance that required all adults living in rental housing within city to obtain an occupancy license conditioned upon occupant's citizenship or lawful immigration status, since ordinance lacked functional coherence without its unconstitutional criminal offense and penalty provisions and its overarching judicial review process. U.S.C.A. Const. Art. 6, cl. 2.	Are obtaining licenses mandatory for renting property?	000499.docx	LEGALEASE-00117646- LEGALEASE-00117647
Indep. Gas & Oil Producers v. Union Oil Co. of California, 669 F.2d 624	298+1	Doctrine of perpetuities voids any property right which may vest more than twenty-one years after some life in being at the creation of the interest.	What violates the rule against perpetuities ?	000514.docx	LEGALEASE-00117633- LEGALEASE-00117634
Lasher v. Redevelopment Auth. of Allegheny Cty., 211 Pa. Super. 408	233+704	When grantor remains in possession after a conveyance of the premises he is a "tenant at will," especially where he has consent of the grantee.	Do grantors who continue to remain in possession after a deed hold possession as tenants at will?	000532.docx	LEGALEASE-00117617- LEGALEASE-00117618
In re Byrd, 546 B.R. 434	315+782	Under Idaho law, ownership of motor vehicle is generally determined by reference to title certificate.	How is ownership of a motor vehicle determined?	Property - Memo 26 - TH.docx	ROSS-003313224-ROSS- 003313225
State v. Tarpley, 157 Or. App. 693	315+792	Term "proof" in statute governing proof of ownership or right to possession of a vehicle refers to establishing prima facie proof of an individual's ownership or possessory interest in a vehicle through a certificate of title, salvage title certificate, or Department of Transportation records. ORS 164.005, 164.105, 801.100, 802.240, 803.010.	Can a certificate of title be prima facie evidence of vehicle ownership?	Property - Memo 28 - TH.docx	ROSS-003297342-ROSS- 003297343
Jones v. Marsh, 148 Tex. 362	23H+662(3)	The statute providing for trial de novo under same rules as ordinary civil suits on appeal to district court from county judge's order denying application for license to sell beer at retail contemplates only limited review, and question for district court is whether county judge's fact findings are reasonably supported by substantial evidence. Vernon's Ann.P.C. arts. 666-14, 667-6.	What is the standard of review a district court should use when hearing an appeal from the Firemen's and Policemen's Civil Service Commission?	000313.docx	LEGALEASE-00117971- LEGALEASE-00117972

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State v. Bale, 512 N.W.2d 164	207+5	Sexual penetration between adoptive parent and child did not constitute incest under statute limiting crime of incest to sexual penetration between those related by consanguinity; adoption did not create legal consanguinity between adoptive parent and child. SDCL 22-22-1(6).	Do incest laws prohibit sexual intercourse between people who are related by affinity?	000457.docx	LEGALEASE-00117967-LEGALEASE-00117968
Travelers Prop. Cas. Co. of Am. v. Hillerich & Bradsby Co., 598 F.3d 257	219+39(2.15)	Damages are "liquidated damages" under Kentucky law, for purposes of award of prejudgment interest, when the amount in question is either agreed upon by the parties or is fixed by operation of law or the parties.	When are damages liquidated?	Libel and Slander - Memo 84 - TH.docx	ROSS-003285573-ROSS-003285575
Thompson v. TCI Prod. Co., 81 F. Supp. 3d 1257	313A+119	Under Oklahoma law, manufacturer's commercial solvent was not unreasonably dangerous to an extent beyond that which would be contemplated by the ordinary consumer who would purchase it, and thus manufacturer was not liable for products liability under design defect theory after consumer of barrel that had contained solvent died in explosion allegedly caused by ignition of solvent residue in barrel when consumer was attempting cut into it with a torch, where it was known generally, and especially to the trained automobile body shop technicians who where the intended consumers, that solvents such as manufacturer's were extremely flammable and that vapors from such solvents could ignite explosively.	What are the elements to prove a claim of manufacturer's product liability?	Products Liability - Memo 12- TH.docx	ROSS-003284752-ROSS-003284754
Kennedy v. City of New York, 196 N.Y. 19	233+695(3)	A tenant holding over after the expiration of a definite term for a year, or years, may be treated by the landlord as a trespasser, or as a tenant from year to year, holding under the conditions of the original lease except as to duration. Order (1908) 111 N.Y.S. 61, 127 App.Div. 89, reversed.	Is a tenant who holds over considered a tenant from year to year?	Landlord and Tenant - Memo 38 - ANG.docx	LEGALEASE-00004776-LEGALEASE-00004779
Bellows v. Ziv, 38 Ill. App. 2d 342	233+695(3)	Where a tenant holds over after expiration of a lease for a year or years, landlord may elect to accept and treat him as a tenant from year to year.	Is a tenant who holds over considered a tenant from year to year?	000806.docx	LEGALEASE-00117787-LEGALEASE-00117790
White v. Croft, 1918 WL 3198, 47 Pa.C.C. 161	233+710	When lease is made for specified time without provision for renewal and tenant holds over after expiration of term, he becomes tenant at sufferance and may be dispossessed at any time, without notice, or may vacate leased premises and be liable for rent only for time he was in possession.	Is a tenant by holding over also a tenant by sufferance?	Landlord and Tenant - Memo 39 - ANG.docx	LEGALEASE-00004780-LEGALEASE-00004783
Brown v. Johnson, 118 Tex. 143	233+525	Relation of landlord and tenant is question of fact, and may be proved or disproved by parol evidence.	Is the existence of a landlord tenant relationship a question of fact?	Landlord and Tenant - Memo 40 - ANG.docx	LEGALEASE-00004784-LEGALEASE-00004785
Roberts v. Casey, 36 Cal. App. 2d Supp. 767	233+525	The determination of whether a person is a lodger or a tenant presents a mixed question of law and fact.	Is determination of a tenant and a lodger a mixed question of law and fact?	000823.docx	LEGALEASE-00117955-LEGALEASE-00117956
Fuqua v. Graber, 158 S.W.3d 635	249+0.7	As a matter of first impression, debtor's state law claim for malicious prosecution against attorney and attorney's law firm, in which he alleged that attorney and law firm, acting on behalf of a client, wrongfully filed an adversary proceeding in debtor's then-pending bankruptcy case, was not preempted by federal bankruptcy law; debtor's malicious prosecution claim did not accrue until five years after he was discharged in bankruptcy.	Does state claims for malicious prosecution preempted by a proceeding in the bankruptcy court?	Malicious Prosecution - Memo 3 - MS.docx	LEGALEASE-00004809-LEGALEASE-00004811

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Davis v. Smith, 227 S.W.3d 299	249+4	Claim for malicious prosecution requires the institution of a civil or criminal proceeding by or at the insistence of the defendant.	What is the prerequisite to the malicious prosecution claim?	000842.docx	LEGALEASE-00117821-LEGALEASE-00117822
Stephan v. United States, 133 F.2d 87	384+2	The constitutional definition of treason has left no room for constructive treason, and Congress could not and has not undertaken to restrict or enlarge the constitutional definition. 18 U.S.C.A. S 2381; U.S.C.A. Const. art. 3, S 3, cl. 1.	Is the doctrine of constructive treason adopted in the United States?	Treason - Memo 4 - ANG.docx	LEGALEASE-00004850-LEGALEASE-00004851
Davis v. Houston Lighting & Power, 990 F. Supp. 515	25T+200	When confronted with question of arbitrability, a district court must determine, as a threshold matter, whether grievance before it is subject to arbitration.	Does national policy favor arbitration?	000987.docx	LEGALEASE-00117985-LEGALEASE-00117986
Williams v. State Farm Mut. Auto. Ins. Co., 202 Mich. App. 491	203+567	A "deadly weapon" is not only a weapon with which death may be easily and readily produced, but one which is likely to produce death or great bodily harm from the manner in which it is used.	Is a deadly weapon considered one that as it was used death would probably result?	001070.docx	LEGALEASE-00118070-LEGALEASE-00118071
Hopi Tribe v. U.S. Envtl. Prot. Agency, 851 F.3d 957	209+105	United States has a general trust relationship with Indian tribes.	Does the United States owe a general trust responsibility to Indian tribes?	Indians - Memo 7 - JS_62223.docx	ROSS-003279313-ROSS-003279314
Zuzak v. Querbes, 193 So. 258	65+71	On question whether a certain lease was the renewal of a prior lease upon the execution of which additional brokerage commissions were due, both leases, which named a partnership as lessee, involved the same lessee, notwithstanding that a change in membership of partnership occurred between dates of execution of leases, since a "partnership" once formed and put into action becomes in contemplation of law a moral being distinct from the persons who compose it.	Is a partnership a civil person having civil rights?	Partnership - Memo 40 - JS_62239.docx	ROSS-003281508-ROSS-003281509
Williams v. State Farm Mut. Auto. Ins. Co., 202 Mich. App. 491	203+567	A "deadly weapon" is not only a weapon with which death may be easily and readily produced, but one which is likely to produce death or great bodily harm from the manner in which it is used.	Is a deadly weapon considered one that as it was used death would probably result?	Homicide - Memo 28 - RK.docx	LEGALEASE-00005262-LEGALEASE-00005263
Merck & Co. Inc. v. Lyon, 941 F. Supp. 1443	212+1384	Under North Carolina law, narrow preliminary injunction against former employee's disclosure to competitor of pharmaceutical product manufacturer's supply agreement for active agreement in stomach acid antagonist, and project launch dates of various antagonist line extensions, was warranted under inevitable disclosure theory; former employee's positions with manufacturer and competitor were similar, competition between parties was intense, former employee was not forthright with manufacturer regarding his employment with competitor, and manufacturer's trade secrets were general business information. N.C.G.S. S 66-154(a).	Do employees have the freedom to sell their expertise to the highest and most congenial bidder?	Labor and Employment - Memo 9 - VP.docx	LEGALEASE-00005282-LEGALEASE-00005283
Heritage Bank v. Kasson, 853 N.W.2d 868	289+501	Party asserting that a partnership relationship exists has the burden of proving that relationship by a preponderance of the evidence.	Who has the burden of proving the existence of a partnership?	000615.docx	LEGALEASE-00118290-LEGALEASE-00118291
Boyer v. First Nat. Bank of Kokomo, 476 N.E.2d 895	226H+17	Joint venture is similar to a partnership except a joint venture contemplates only a single business transaction; partnership, on the other hand, is formed for general business of a particular kind.	Is a joint venture limited to a single transaction?	000627.docx	LEGALEASE-00118277-LEGALEASE-00118279

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Xcel Energy Servs. Inc. v. F.E.R.C., 815 F.3d 947	145+1	Primary aim of the Federal Power Act (FPA) is the protection of consumers from excessive rates and charges. Electric Utility Companies Act, S 205(a), 16 U.S.C.A. S 824d(a).	What is the primary aim of Federal Power Act?	Electricity - Memo 1 - RM.docx	ROSS-003283488-ROSS-003283490
Wilson v. Texas Parks & Wildlife Dep't, 886 S.W.2d 259	401+17	If plaintiff's venue choice is not properly challenged through motion to transfer venue, propriety of venue is fixed in county chosen by plaintiff. V.T.C.A., Civil Practice & Remedies Code S 15.063; Vernon's Ann.Texas Rules Civ.Proc., Rule 86, subd. 1.	Does a plaintiff have the right to choose venue?	001112.docx	LEGALEASE-00118110-LEGALEASE-00118112
Estate of Prather v. Sherman Hosp. Sys., 2015 IL App (2d) 140723	401+52(1)	When a plaintiff chooses his home forum or the site of the accident or injury, the choice of forum is most likely convenient; however, when a plaintiff is foreign to the chosen forum and when the action giving rise to the litigation did not occur in the chosen forum, the plaintiff's choice of forum is accorded less deference.	Is the plaintiffs choice of venue entitled to the same weight in all cases?	Venue - Memo 31 - TH.docx	ROSS-003311933-ROSS-003311935
Mlle. Reif, v. Randau, 166 Misc. 247	379+210	The right to carry on business, be it called "liberty" or "property," has value, and to interfere therewith without just cause is unlawful.	Does the right to carry on business has value?	001379.docx	LEGALEASE-00118173-LEGALEASE-00118174
Window Rock Unified Sch. Dist. v. Reeves, 861 F.3d 894	209+106	Federal government may limit tribe's power either by treaty or by statute.	How does the federal government limit a tribes sovereignty?	Indians - Memo 11 - MS_62211.docx	ROSS-003307655-ROSS-003307656
People v. Williams, 128 Ill. App. 3d 384	92+3419	The legislature's determination that a more severe penalty was needed to deter men from committing aggravated incest than was needed to deter women, and that men most often, if not exclusively, commit the offense, was not arbitrary, irrational, or unreasonable, and aggravated incest statute did not offend equal protection clause. U.S.C.A.Const. Amend. 14; S.H.A.Const.1970, art. 1, S 18; S.H.A. ch. 38, SS 11-10, 11-11.	Are incest sentences more stringent on men than on women?	05362.docx	LEGALEASE-00080807-LEGALEASE-00080808
Dauphin Cty. Indus. Dev. Auth. v. Pennsylvania Pub. Util. Comm'n, 123 A.3d 1124	145+1	The purpose of the Alternative Energy Act is to encourage growth and investment in renewable sources of energy. 73 P.S. SS 1648.1-1648.8.	What is the purpose of Alternative Energy Act?	Electricity - Memo 4 - RM.docx	ROSS-003286177-ROSS-003286178
Nat'l Blvd. Bank of Chicago v. Citizens Utilities Co. of Illinois, 107 Ill. App. 3d 992	315+34	Normally, water and sewer mains are considered real property.	Is water and sewer mains considered as real property?	Property - Memo 34 - RM.docx	ROSS-003283927-ROSS-003283928
Brown v. Bd. of Ed. of Topeka, Shawnee Cty., Kan., 347 U.S. 483	92+3278(1)	The opportunity of an education, where the state has undertaken to provide it, is a right which must be made available to all on equal terms. U.S.C.A.Const. Amend. 14.	Is education a core function of the state government?	Education - Memo 1 - JS.docx	LEGALEASE-00005952-LEGALEASE-00005953
Bolduc v. Bailey, 586 F. Supp. 896	237+1	Gravamen of action for defamation is damage to one's reputation in the community caused by the defamatory statements.	What is the gravamen of an action for defamation?	001314.docx	LEGALEASE-00118499-LEGALEASE-00118500
In Re Mountaintop Area Joint Sanitary Auth., 166 A.3d 553	148+2.1	When determining whether a de facto taking has occurred, court focuses on the governmental action in question.	Does occurrence of a de facto taking focus on the governmental action in question?	Eminent Domain -Memo 56- VP.docx	LEGALEASE-00006082-LEGALEASE-00006083
Home Builders Ass'n of Greater Chicago v. City of Chicago, 213 F. Supp. 3d 1019	148+2.1	Mere diminution in the value of property, however serious, is insufficient to demonstrate a taking. U.S. Const. Amend. 5.	Is diminution of property value alone sufficient to support a taking?	001464.docx	LEGALEASE-00118669-LEGALEASE-00118670

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Smith v. Luther, 973 F. Supp. 601	249+47	Conclusory allegation that special agent of Mississippi State Tax Commission and colleague "further participated in prosecuting these unfounded charges against (taxpayer) at trial" was not sufficient to state claim against agent for malicious prosecution under Mississippi law.	Is conclusory allegation sufficient to state a claim of malicious prosecution?	Malicious Prosecution - Memo 37 - ANG.docx	ROSS-003285218-ROSS-003285219
Hornstein v. Wolf, 109 A.D.2d 129	249+50	Conclusory, unsubstantiated allegations of malice were not sufficient to state claim of malicious prosecution.	Is conclusory allegation sufficient to state a claim of malicious prosecution?	001497.docx	LEGALEASE-00118657-LEGALEASE-00118658
Tennant v. Chase Home Fin., 187 So. 3d 1172	302+34(1)	Under modern rules of civil procedure, pleadings are to be liberally construed in favor of the pleader. Rules Civ.Proc., Rule 8.	How are pleadings construed under the modern pleading rules?	001505.docx	LEGALEASE-00118562-LEGALEASE-00118564
In Re Mountaintop Area Joint Sanitary Auth., 166 A.3d 553	148+2.1	When determining whether a de facto taking has occurred, court focuses on the governmental action in question.	Does occurrence of a de facto taking focus on the governmental action in question?	001448.docx	LEGALEASE-00118605-LEGALEASE-00118606
Mayfield v. Lockheed Eng'g & Scis. Co., 970 S.W.2d 185	231H+783	Exception to at-will employment doctrine that recognizes wrongful termination action against employer who discharges employee for making good faith attempt to determine legality of his actions did not apply in former employee's wrongful termination action against engineering company, where employee alleged that he was laid off solely for going up the chain of command to complain about another employee's use of word "fictitious" in connection with financial reports that were required under contract with National Aeronautics and Space Administration (NASA), and employee made no inquiry with any governmental entity as to legality of actions he was asked to do for employer.	Does the public policy prohibit the discharge of an employee who in good faith attempts to find out if the requested act is illegal?	001424.docx	LEGALEASE-00118941-LEGALEASE-00118942
Vasko v. United States, 112 Fed. Cl. 204	148+2.1	The government must be operating in its sovereign, rather than in its proprietary capacity, when it initiates a taking. U.S. Const. Amend. 5.	Under what capacity does the government act when it initiates a taking?	Eminent Domain -Memo 74-VP.docx	ROSS-003285225-ROSS-003285226
McFarland v. Entergy Mississippi, 919 So. 2d 894	317A+101	Public utility companies only have a duty to eliminate foreseeable danger.	Do public utility companies have a duty to eliminate foreseeable danger?	Public utilities - Memo 17 - RM.docx	ROSS-003311264-ROSS-003311265
Cassidy v. State, 853 So. 2d 594	342+26	There was sufficient evidence to make it jury question whether pocketknife wielded by defendant in robbery was deadly weapon, to support conviction for robbery with deadly weapon, since defendant displayed open pocketknife to store clerk and threatened to cut her throat.	Can a pocketknife be considered a deadly weapon?	001725.docx	LEGALEASE-00118876-LEGALEASE-00118877
State v. Myers, 171 W. Va. 277	203+1174	In any case of homicide, there must be proof of the identity of the deceased and the causation of death.	Is proof of causation of death required in a case of homicide?	Homicide - Memo 43 - TH.docx	ROSS-003284827-ROSS-003284829
Elk v. United States, 87 Fed. Cl. 70	209+121	Treaty with Indian tribe is a contract and should be interpreted to give effect to intent of signatories.	Is a treaty with an Indian tribe a contract?	Indians - Memo 28 - TH.doc	LEGALEASE-00006862-LEGALEASE-00006863
Elk v. United States, 87 Fed. Cl. 70	209+121	Treaty with Indian tribe is a contract and should be interpreted to give effect to intent of signatories.	How should a treaty between the United States and an Indian tribe be interpreted?	Indians - Memo 32 - TH.docx	LEGALEASE-00006870-LEGALEASE-00006871
Lobo v. Celebrity Cruises, 426 F. Supp. 2d 1296	25T+146	Provision of Federal Arbitration Act (FAA) stating that contracts of employment of seamen are not covered by the Act prevents arbitration clauses in employment contracts between U.S. seafarers and their U.S. employers from being enforceable. 9 U.S.C.A. S 1.	Does the Federal Arbitration Act (FAA) cover arbitration provisions contained in employment contracts?	002134.docx	LEGALEASE-00119094-LEGALEASE-00119096

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Buckeye Check Cashing v. Cardegna, 546 U.S. 440	25T+134(3)	Challenges to the validity of arbitration agreements that are made "upon such grounds as exist at law or in equity for the revocation of any contract," within meaning of Federal Arbitration Act provision stating that arbitration provisions are valid, irrevocable, and enforceable "save upon such grounds as exist at law or in equity for the revocation of any contract," include specific challenges to the validity of the agreement to arbitrate and challenges to the contract as a whole, either on a ground that directly affects the entire agreement, such as fraudulent inducement, or on the ground that the illegality of one of the contract's provisions renders the whole contract invalid. 9 U.S.C.A. S 2.	Do courts or arbitrators adjudicate claims of fraud in the inducement?	002164.docx	LEGALEASE-00119124- LEGALEASE-00119125
Regions Bank v. Britt, 642 F.Supp.2d 584	25T+114	Bank loan affected commerce such that arbitration clause in loan terms was subject to Federal Arbitration Act (FAA) in bank's action to compel arbitration of customer's claims against bank, even though customer claimed transaction was wholly intrastate; loan involved electronic communications and funds crossing state lines, and commercial lending, taken in the aggregate, had broad impact on national economy. U.S.C.A. Const. Art. 1, S 8, cl. 3; 9 U.S.C.A. S 2.	What are transactions in commerce under the Federal Arbitration Act?	002171.docx	LEGALEASE-00119131- LEGALEASE-00119132
Hayes v. State, 341 S.W.3d 293	401+17	Party cannot waive or consent to venue when a cause of action has been localized by statute.	Can one waive or consent to venue when a transitory action has been localized by statute?	Venue - Memo 56- ANG.docx	ROSS-003299594-ROSS- 003299595
Stow Mun. Elec. Dep't v. Dep't of Pub. Utilities, 426 Mass. 341	145+11.3(4)	Electric utility's "stranded costs" can include existing contractual obligations for power purchases above current market rates.	What are Stranded costs?	Electricity - Memo 13 - JS.docx	ROSS-003282303-ROSS- 003282304
State v. Jones, 105 N.J. Super. 493	110+775(4)	In prosecution for first-degree murder, trial court did not err in allowing "on or about" instruction in face of affirmative alibi; time of death was not element of crime and defense of alibi for particular time period does not constructively create such an element and, thus, "on or about" instruction did not relieve state of its burden to prove any element.	Is time of death considered to an element of homicide?	002236.docx	LEGALEASE-00119290- LEGALEASE-00119291
State v. Angulo, 148 Wash. App. 642	110+563	"Prima facie," in the context of the "corpus delicti rule," appears to mean that the evidence must preponderate in favor of the existence of a criminal act or agency; if the evidence could equally point to both a criminal or non-criminal cause, then the state has not met its burden of establishing the corpus delicti.	What is the corpus delicti of incest?	002261.docx	LEGALEASE-00119257- LEGALEASE-00119258
Kaplan v. Inc. Vill. of Lynbrook, 12 A.D.3d 410	386+10	Person entering upon the land of another without permission, whether innocently or by mistake, is a trespasser.	Can a trespass occur by mistake?	002330.docx	LEGALEASE-00119208- LEGALEASE-00119209
Gill v. LDI, 19 F. Supp. 2d 1188	386+2	Under Washington law, a trespass claim does not require that the invasion or trespass itself be intentional, and it is sufficient that the act resulting in the trespass is intentional.	Does the law require that the invasion or trespass itself be intentional?	Trespass - Memo 69 - JS.docx	ROSS-003284552-ROSS- 003284553
Com. v. Smith, 2005 PA Super 293	207+6	"Sexual intercourse" between persons within the degrees of consanguinity within which marriages are prohibited or declared by law to be incestuous and void, as will support incest charge, is limited to penile-vaginal penetration, with or without emission. M.G.L.A. c. 272, S 17.	Is incest limited to penile-vaginal penetration?	002414.docx	LEGALEASE-00119444- LEGALEASE-00119445

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ASA Investorings Partnership v. C.I.R., 201 F.3d 505	220+3913	Partnership, through which corporation allocated capital gains to foreign entities, was not acceptable as real tax entity, where sole purpose of its "business activity," was tax avoidance; foreign entities were controlled by foreign bank, and any risks inherent in foreign bank's investments were de minimis.	Does an activity whose sole purpose is tax avoidance considered a business activity?	Partnership - Memo 71 - RK.docx	ROSS-003281752-ROSS-003281753
J.K.S. Realty v. City of Nashua, 164 N.H. 228	148+2.1	When determining whether a governmental taking has occurred, the question is one of degree and its resolution is governed by no set test.	Does the facts and circumstances of each case determine a taking?	001896.docx	LEGALEASE-00119664-LEGALEASE-00119665
Rosenberg v. Merrill Lynch, Pierce, Fenner & Smith, 170 F.3d 1	170B+3053	Question of scope of arbitration agreement under Federal Arbitration Act (FAA) is matter not just of state law, but of general federal arbitration law. 9 U.S.C.A. S 1 et seq.	How do courts determine the scope of an arbitration agreement?	002811.docx	LEGALEASE-00119746-LEGALEASE-00119747
Selby v. State, 76 Md. App. 201	203+525	Murder is common-law crime, proof of which requires showing that criminally responsible human being, with malice, killed another human being.	Is murder a common law crime?	Homicide - Memo 68 - RK.docx	ROSS-003284157-ROSS-003284159
People v. Duszewycz, 27 Ill. 2d 257	352H+21(1)	The common denominator of forcible rape and incest is element of unlawful carnal knowledge.	What is the common denominator of forcible rape and incest?	Incest - Memo 61 - JS.docx	ROSS-003284182
Bucca v. State, 43 N.J. Super. 315	207+5	Where uncle, who was New Jersey resident, married his niece, who was daughter of uncle's sister, in Italy under dispensation authorized by Italian law, uncle, who sought to bring the niece to New Jersey, would not be entitled to full recognition of such Italian marriage under New Jersey law, and therefore, uncle's cohabitation with niece in New Jersey would constitute incest. N.J.S. 2A:114-1, N.J.S.A.; R.S. 37:1-1, N.J.S.A.	Is marriage between uncle and niece a crime of incest?	002078.docx	LEGALEASE-00119879-LEGALEASE-00119880
Robinson v. Brice, 894 S.W.2d 525	219+39(2.6)	Term "claim," as used in provision of prejudgment interest statute which requires plaintiff to provide written notice of claim in order for claim for prejudgment interest to accrue, means demand for compensation or assertion of right to be paid. Vernon's Ann.Texas Civ.St. art. 5069-1.05, S 6(a).	"What is a ""claim""?"	Action - Memo 35 - ANG.docx	ROSS-003284698-ROSS-003284699
Kiser v. A.W. Chesterton Co., 285 Va. 12	13+1	A "right of action" is the remedial right accorded a person to enforce a cause of action and arises only when a person's rights are infringed; consequently, a right of action cannot arise until there is a cause of action.	"When does a ""right of action"" arise?"	002466.docx	LEGALEASE-00120001-LEGALEASE-00120003
Parker v. Town of Milton, 169 Vt. 74	13+13	To have standing, plaintiff must, at minimum, show (1) injury in fact, (2) causation, and (3) redressability.	What must a plaintiff show for standing to bring a case?	002469.docx	LEGALEASE-00120006-LEGALEASE-00120007
Pawley v. State, 217 So.3d 128	46H+1291	No party, whether represented or pro se, has the "right" to file frivolous claims.	Does a party have the right to file a frivolous claim?	002508.docx	LEGALEASE-00120123-LEGALEASE-00120124
Worden v. Smith, 178 Wash. App. 309	366+1	The purpose of the doctrine of equitable subrogation is to avoid a person's receiving an unearned windfall at the expense of another.	What is the purpose of the doctrine of equitable subrogation?	Subrogation - Memo 83 - RM C.docx	ROSS-003296899-ROSS-003296901
Chamber of Commerce of U.S. v. N.L.R.B., 879 F. Supp. 2d 18	15A+1062	Quorum of administrative agency acting on matter need not be physically present together at any particular time.	"For a board to conduct its proceedings, is it required that the forum need to be physically present at any one time?"	002636.docx	LEGALEASE-00120176-LEGALEASE-00120177

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Beldon Roofing Co. v. Sunchase IV Homeowners' Ass'n, 494 S.W.3d 231	360+18.15	Federal Arbitration Act (FAA) did not preempt agreed order between contractor and condominium homeowner association to submit their dispute over payment to arbitration under state Alternative Dispute Resolution Act (ADR Act), even though contractor and association had previously agreed to arbitrate pursuant to their contract; court could enforce agreed order, thus giving effect to contractual rights and expectations of parties, without doing violence to policies behind the FAA. 9 U.S.C. S 1 et seq.; Tex. Civ. Prac. & Rem. Code Ann. S 154.001 et seq.	When does the Federal Arbitration Act (FAA) supersede state laws regarding primary jurisdiction?	002670.docx	LEGALEASE-00120087-LEGALEASE-00120088
Luster v. Retail Credit Co., 575 F.2d 609	237+119	In defamation case mental anguish and embarrassment are proper elements of damages.	Can mental anguish be an element of damages in defamation?	002911.docx	LEGALEASE-00119885-LEGALEASE-00119886
Sorge v. City of New York, 56 Misc. 2d 414	221+176	United States government may confer on foreign consul in United States territory power to administer oath and consul thus becomes magistrate as if he were acting for United States.	Does the United States have the authority to confer on a counsel the power to administer oaths?	Ambassadors and Consuls - Memo 26 - RK.docx	LEGALEASE-00009671-LEGALEASE-00009672
Com. v. De Pofi, 362 Pa. 229	203+520	Every willful and deliberate and premeditated murder is a "heinous offense".	"Is every willful, deliberate and premeditated murder a heinous offense?"	003174.docx	LEGALEASE-00120485-LEGALEASE-00120486
In re Creditrust Corp., 283 B.R. 826	237+112(2)	Under Ohio law, plaintiff in defamation suit must prove fault on part of defendant in publishing defamatory statement by clear and convincing evidence.	Is the plaintiff required to prove fault in a defamation claim?	003314.docx	LEGALEASE-00120599-LEGALEASE-00120601
Log Creek. v. Kessler, 717 F. Supp. 2d 1239	237+4	Florida law ordinarily requires a defamation plaintiff to prove fault. Restatement (Second) of Torts SS 558, 580A, 580B.	Is the plaintiff required to prove fault in a defamation claim?	Libel and Slander - Memo 148 - RK.docx	ROSS-003298708-ROSS-003298710
Hillme v. Chastain, 75 S.W.3d 315	289+425	Partnership property that is held only in an individual name does not affect the partnership status.	Does it affect the partnership status if the partnership property is held only in the name of one partner?	Partnership - Memo 95 - RK.docx	ROSS-003283897-ROSS-003283899
Argonaut Ins. Co. v. C & S Bank of Tifton, 140 Ga. App. 807	366+1	Subrogation is not founded upon contract, express or implied, but upon principles of equity and justice.	Is the right of subrogation founded upon contract?	Subrogation - Memo 85 - RM C.docx	LEGALEASE-00009955-LEGALEASE-00009956
Houston v. Bank of Am. Fed. Sav. Bank, 119 Nev. 485	366+1	"Equitable subrogation" is an equitable remedy to avoid a person's receiving an unearned windfall at the expense of another.	Is equitable subrogation a remedy?	Subrogation - Memo 87 - RM C.docx	ROSS-003283461-ROSS-003283463
Hampton v. Metro. Water Reclamation Dist. of Greater Chicago, 2016 IL 119861	148+2.17(5)	Temporary flooding could constitute a compensable taking under both the federal and state constitutions, and courts were required to look to the facts of each case to determine whether the property owner's use and enjoyment of the property has been diminished or destroyed; overruling Luperini v. County of Du Page, 265 Ill.App.3d at 89, 202 Ill.Dec. 528, 637 N.E.2d 1264.	Does seasonally recurring flooding constitute a taking?	Eminent Domain - Memo 133 - JS.docx	ROSS-003314242-ROSS-003314244
Chapman v. United States, 107 Fed. Cl. 47	148+2.2	The government is not liable for a taking under the Fifth Amendment when it destroys property to prevent the spreading of a fire. U.S.C.A. Const.Amend. 5.	Is the government liable for the destruction of property when it acts to prevent the spreading of a fire?	Eminent Domain - Memo 137 - RK.docx	ROSS-003285926-ROSS-003285927
Stearn v. MacLean-Hunter Ltd., 46 F.R.D. 76	237+5	Proof of malice is not essential element of private libel suit.	Is proof of malice essential in private citizen libel suits?	003348.docx	LEGALEASE-00120827-LEGALEASE-00120828
Abramson v. Georgetown Consulting Grp., 765 F. Supp. 255	317A+145.1	Virgin Islands Public Services Commission (PSC) has authority, independent of the Commissioner of Property and Procurement, to procure the services of agents to assist the PSC in its investigation of public utilities operating within the territory of the United States Virgin Islands. 30 V.I.C. S 18; 31 V.I.C. SS 230-250.	Can a Public Service Commission (PSC) appoint agents to assist in investigating public utilities?	003506.docx	LEGALEASE-00120723-LEGALEASE-00120724

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Luthmers v. Hazel, 212 Ill. App. 199	249+61	In action for malicious prosecution and for false arrest, it is always competent to show a discharge for purpose of showing termination of suit.	Is discharge in a case sufficient to show termination of the prosecution for malicious prosecution action?	021124.docx	LEGALEASE-00120998-LEGALEASE-00121000
Stone v. Washington Reg'l Med. Ctr., 515 S.W.3d 104	75+10	When a charitable trust is created, legal title is passed to the trustee to hold it for the benefit of a charitable purpose.	What happens when a charitable trust is created?	01107.docx	LEGALEASE-00084152-LEGALEASE-00084153
Covenant Presbytery v. First Baptist Church, 489 S.W.3d 153	75+10	When a charitable trust is created, legal title is passed to the trustee to hold it for the benefit of a charitable purpose. Ark. Code Ann. S 28-73-103(4).	What happens when a charitable trust is created?	013328.docx	LEGALEASE-00121753-LEGALEASE-00121754
City of San Antonio v. TPLP Office Park Properties, 218 S.W.3d 60	148+106	If access to a landowner's property is materially and substantially impaired by the city, the landowner is entitled to compensation; however, diminished access is not compensable if suitable access remains.	Is diminished access compensable if suitable access remains under the takings law?	Eminent Domain - Memo 171 - GP.docx	LEGALEASE-00010965-LEGALEASE-00010966
Delta Sales Yard v. Patten, 870 P.2d 554	241+4(2)	Statute of limitations applicable to civil lawsuits against sheriffs, coroners, police officers, firefighters, national guardsmen and any other law enforcement authorities was not unconstitutionally vague for failing to define term "law enforcement authority"; statute was sufficiently clear to permit persons of ordinary intelligence to ascertain meaning of "law enforcement authority" by reference to peace officer classification statute that explicitly included brand inspectors. West's C.R.S.A. SS 13-80-103(1)(c), 18-1-90(3)(I)(IV).	Is a brand inspector a law enforcement authority?	Inspection - Memo 27 - SH.docx	ROSS-003283960-ROSS-003283961
Delta Sales Yard v. Patten, 870 P.2d 554	316P+985	Peace officer classification for brand inspectors was not limited to brand inspector's power of arrest, but encompassed all of inspector's statutory duties to enforce all laws of state pursuant to peace officer classification statute; thus, one-yearstatute of limitations for civil actions against sheriffs, coroners, police officers, firefighters, national guardsmen, and any other law enforcement authority applied to suit against brand inspector alleging willful and wanton negligence in permitt ing resale of cattle without proper title clearance. West's C.R.S.A. SS 13-80-103(1)(c), 18-1-901, 18-1-901(3)(I)(IV), 35-53-128, 35-53-128(2).	Are brand inspectors vested with the power to arrest?	019479.docx	LEGALEASE-00121278-LEGALEASE-00121279
Cornette v. State, 295 Ga. App. 877	2.31E+12	Kidnapping occurs when a person abducts or steals away any person without lawful authority or warrant and holds that person against his or her will. West's Ga.Code Ann. S 16-5-40(a).	When does kidnapping occur?	Kidnapping - Memo 2 - TH.docx	ROSS-003297059-ROSS-003297060
McGuire v. State, 266 Ga. App. 673	2.31E+12	A person commits the offense of "kidnapping" when he abducts or steals away any person without lawful authority or warrant or holds such person against his or her will. West's Ga.Code Ann. S 16-5-40(a).	When does kidnapping occur?	020995.docx	LEGALEASE-00121705-LEGALEASE-00121706
Reagan v. Baird, 140 Ill. App. 3d 58	302+312	Facts set forth and exhibits attached to complaint control over allegation of complaint itself.	Will exhibits attached to a complaint control over the allegations of the complaint?	022912.docx	LEGALEASE-00121509-LEGALEASE-00121511
Onstad v. Wright, 54 S.W.3d 799	46H+747	The mere fact that the order on the motion in limine was a preliminary ruling did not defeat the trial court's authority to sanction counsel for his failure to comply with the ruling.	Is a motion in limine a preliminary ruling by a trial court?	Pretrial Procedure - Memo # 57 - C - AP.docx	ROSS-003303232-ROSS-003303233

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Cty. of Inyo v. Pub. Utilities Com., 26 Cal. 3d 154	405+2081	Section of constitutional provision grants legislature power to confer additional authority and jurisdiction on Public Utilities Commission consistent with scope of constitutional article, which is not limited to common carriers and transportation companies, over which Commission has had jurisdiction since 1879, but deals with public utilities in all forms, and thus possible legislation conferring Commission jurisdiction over municipally owned water companies, selling beyond municipal borders oreven within such borders, would clearly fall within scope of such section of such present article; disapproving language in City of Pasadena v. Railroad Commission, 183 Cal. 526, 192 P. 25, insofar as contrary to reasoning of opinion. West's Ann.Const. art. 12, S 5.	Is the Public Utilities Commission given the authority to regulate public utilities under Section 23 of Article XII of the Constitution?	042587.docx	LEGALEASE-00121162-LEGALEASE-00121163
City of Rochester v. Pub. Serv. Comm'n, 192 Misc. 33	317A+120	Under the Public Service Law, the Public Service Commission is the delegate of the legislature in regulation of rates. Public Service Law, S 60 et seq.	Is the Public Service Commission a delegate of the Legislature?	Public Utilities - Memo 88 - AM.docx	LEGALEASE-00011110-LEGALEASE-00011112
Velazquez v. Serrano, 43 So. 3d 82	366+1	Equitable subrogation is not allowed if it works any injustice to the rights of others; a party's entitlement to subrogation therefore depends upon the equities and attending facts of each case.	Is equitable subrogation not allowed if it works any injustice to the rights of others?	05611.docx	LEGALEASE-00084313-LEGALEASE-00084314
Osborne v. Jauregui, 252 S.W.3d 70	30+3774	Appellate court will not disturb a trial court's balancing of the equities with respect to subrogation claim unless it would be inequitable to allow the judgment to stand.	Is subrogation based upon equitable principles?	Subrogation - Memo # 467 - C - SA.docx	ROSS-003282213-ROSS-003282214
Levy v. HLI Operating Co., 924 A.2d 210	366+33(1)	Subrogation differs from contribution because its operation rests on concepts of primary and secondary liability among obligors; thus, it acts to place an entire loss, not just a portion, on another party.	"Are ""contribution"" and ""subrogation"" distinct?"	043713.docx	LEGALEASE-00121397-LEGALEASE-00121398
In re McGrath's Estate, 159 Pa. Super. 78	366+1	Subrogation will be enforced only if it can be predicated upon some equitable doctrine, applicant therefor has an equity to invoke and his cause is just and its enforcement consonant with right and justice, and then only in a clear case.	"Is subrogation an equitable doctrine and must depend upon inherent justice and some principle of equity jurisprudence, usually unjust enrichment?"	Subrogation - Memo # 852 - RM C.docx	ROSS-003284112-ROSS-003284113
In re AppOnline.com, 321 B.R. 614	8.30E+10	Under New York choice-of-law rules, general rule is that laws of state where note is executed and payable govern the interpretation of that note.	Which law governs the interpretation of a note?	009557.docx	LEGALEASE-00122349-LEGALEASE-00122350
Bankers Tr. (Delaware) v. 236 Beltway Inv., 865 F. Supp. 1186	8.30E+282	Just as separate agreements cannot destroy instrument's negotiability under Virginia law, neither can they create negotiability. Va.Code 1950, S 8.3-119(2) (Repealed).	Does a separate agreement destroy or affect the negotiability of an instrument in any manner?	Bills And Notes- Negotiability-Memo 28 - AM.docx	ROSS-003286147-ROSS-003286148
McNish v. Gen. Credit Corp., 164 Neb. 526	398+76	Where charge for loan made to finance purchase of truck was in excess of maximum rate of interest allowable by statute, note given as evidence of such loan was void from its inception and maker was entitled to have the same canceled as well as a return of installment payments previously made thereon. R.S.Supp. 1953, S 45-138.	Are loans made in violation of installment loan statutes void and uncollectable?	Consumer Credit - Memo 19 - IS VP.docx	ROSS-003283813-ROSS-003283814
Davis v. May, 135 S.W.3d 747	148+307(2)	The ultimate question of whether the facts constitute a taking is a question of law, not a question of fact.	Is the ultimate question of whether the facts constitute a taking a question of fact?	Eminent Domain - Memo 201 - GP.docx	ROSS-003301593-ROSS-003301594

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Thomas v. Lloyd, 17 S.W.3d 177	289+623	Evidence that the land is used by the firm is of itself insufficient to rebut the presumption that title is in the individual partners; the mere use of land by a partnership does little to show the land is owned by the partnership.	Does use of land by a partnership make it partnership property?	021828.docx	LEGALEASE-00122489- LEGALEASE-00122490
In re Funneman, 155 B.R. 197	289+953	Under Illinois law, partners' rights in partnership property are secondary to rights of partnership creditors; until creditors of partnership are satisfied, no partner has right to any distribution from partnership.	Do partners have the right to distribution of partnership property before creditors are satisfied?	Partnership - Memo 158 - RK.docx	LEGALEASE-00011982- LEGALEASE-00011983
Sorenson v. Bowen, 199 Or. 607	302+8(5)	A general averment of indebtedness without any statement of facts supporting it is a mere "conclusion of law."	Is an allegation of indebtedness a conclusion of law?	022925.docx	LEGALEASE-00122123- LEGALEASE-00122124
Dubecky v. Horvitz Co., 64 Ohio App. 3d 726	30+4179	Court of Appeals will not disturb trial court's ruling on request for motion in limine unless there has been abuse of discretion.	Is a trial court's ruling on a motion in limine left to the sound discretion of the trial court and reversal at the appellate court is only in cases of abuse?	Pretrial Procedure - Memo # 91 - C - JTB.docx	LEGALEASE-00012176- LEGALEASE-00012177
Vega v. La Movida, 294 Ga. App. 311	307A+3	Trial court may modify a ruling on a motion in limine.	Can a trial court modify a ruling on a motion in limine?	Pretrial Procedure - Memo # 957 - C - MLS.docx	ROSS-003287068-ROSS- 003287069
State ex rel. AG Processing v. Pub. Serv. Comm'n of State of Missouri, 2003 WL 1906385	190+4.1	Gas and electric utilities that filed application with Public Service Commission (PSC) for merger were not required to submit a market power study as part of their application as proof that merger was not detrimental to public; instead customer that challenged proposed merger had burden to show on appeal that Public Service Commission (PSC) erred by failing to order the utilities to submit a market power study as part of their application for approval of their merger. V.A.M.S. S 393.150, subd. 2, 4 Mo.Code of State Regulations 240-2.060(7)(D), (8)(D) .	Should Public Service Commissions ensure that a change in the ownership of a public utility is not detrimental to the public?	042206.docx	LEGALEASE-00122147- LEGALEASE-00122148
Am. Ins. Co. v. Ohio Bur. of Workers Comp., 62 Ohio App. 3d 921	366+7(1)	Surety is traditionally subrogated to rights of the one it pays, the obligee.	Is a surety traditionally subrogated to the rights of the one it pays?	044206.docx	LEGALEASE-00122111- LEGALEASE-00122112
City of Cleveland v. Ohio Civil Rights Comm'n, 43 Ohio App. 3d 153	13+61	Civil rules pertaining to commencement of civil action apply unless there is good and sufficient reason not to apply them.	When do civil rules pertaining to commencement of civil action apply?	005514.docx	LEGALEASE-00123820- LEGALEASE-00123821
Matter of Estate of Musgrove, 144 Ariz. 168	241+43	The general rule is that a cause of action accrues whenever one person may sue another.	Does cause of action arise when party has a right to file suit?	005559.docx	LEGALEASE-00123884- LEGALEASE-00123885
Cooper Indus. v. City of S. Bend, 899 N.E.2d 1274	241+95(1.5)	For an action to accrue for limitations purposes, it is not necessary that the full extent of the damage be known or even ascertainable, but only that some ascertainable damage has occurred.	Does a claim accrue before damages are ascertainable?	005607.docx	LEGALEASE-00123996- LEGALEASE-00123997
In re Santiago, 563 B.R. 457	13+61	Under Puerto Rico law, a breach of contract claim accrues at the time of the breach. 31 L.P.R.A. S 3018.	Does a breach of contract claim accrue at the time of the breach?	Action - Memo # 39 - C - LK.docx	ROSS-003315892-ROSS- 003315893
N. Carolina Farm Bureau Mut. Ins. Co. v. Hull, 795 S.E.2d 420	241+46(6)	Claim for breach of contract accrues, and statute of limitations begins to run, at the time of notice of the breach. N.C. Gen. Stat. Ann. S 1-52.	Does a breach of contract claim accrue at the time of the breach?	005822.docx	LEGALEASE-00123065- LEGALEASE-00123066

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Rex v. CSA-Credit Sols. of Am., 507 F. Supp. 2d 788	25T+121	Text of the Credit Repair Organization Act (CROA) did not evidence a congressional intent for claims under the CROA to be nonarbitrable. Credit Repair Organizations Act, SS 405(a), 409(a), 15 U.S.C.A. SS 1679c(a), 1679g(a).	Did Congress intend for Credit Repair Organization Act (CROA) claims to be nonarbitrable?	007114.docx	LEGALEASE-00123788- LEGALEASE-00123789
Howard v. Anderson, 36 F. Supp. 2d 183	25T+121	Pre-dispute agreements to arbitrate Title VII claims are enforceable. Civil Rights Act of 1964, S 701 et seq., 42 U.S.C.A. S 2000e et seq.	Are agreements to arbitrate Title VII claims enforceable?	007118.docx	LEGALEASE-00123844- LEGALEASE-00123845
Marchese v. Shearson Hayden Stone, 734 F.2d 414	25T+121	It is up to case-by-case interpretation to determine which statutes are such that an arbitrator can consider a claim thereunder.	Do courts use a case by case interpretation to determine which statutes allow an arbitrator to consider a statutory claim?	007126.docx	LEGALEASE-00123867- LEGALEASE-00123868
Montgomery v. Compass Airlines, 98 F. Supp. 3d 1012	231H+1549(14)	Provision of collective bargaining agreement (CBA), requiring the system board to hear and decide all grievances, and providing that its decisions were final and binding on the parties, required airline employee to submit FMLA claim against airline employer to system board for arbitration; CBA provision was clear and unmistakable waiver of judicial forum for the FMLA claim, as the CBA contained explicit statutory reference to the FMLA, wherein employer promised to comply with the FMLA, and CBA provision made arbitration of any claims arising under the terms of the CBA mandatory. Family and Medical Leave Act of 1993, S 2 et seq., 29 U.S.C.A. S 2601 et seq.	Can employment-related civil rights claims be subjected to mandatory arbitration provisions?	007134.docx	LEGALEASE-00123894- LEGALEASE-00123895
State ex rel. Atty. Gen. v. Vela, 987 N.E.2d 722	75+6	No particular form of words or conduct is necessary for the manifestation of intention to create a charitable trust. R.C. S 109.23.	What form is required to create a charitable trust?	013342.docx	LEGALEASE-00122674- LEGALEASE-00122675
City of Des Plaines v. Redella, 365 Ill. App. 3d 68	148+2.19(1)	Property owners were not entitled to just compensation from city after private road owned by owners was converted into a public highway by prescriptive easement; statute allowed city to convert private road to a public highway by prescription, and conversion by prescription did not constitute a governmental taking for which compensation was required. U.S.C.A. Const.Amend. 5; S.H.A. Const. Art. 1, S 5; S.H.A. 605 ILCS 5/2-202.	Is acquisition of an easement by prescription a taking?	017459.docx	LEGALEASE-00122590- LEGALEASE-00122591
United States v. Rojas, 812 F.3d 382	221+391	Extraterritorial application of United States law must also be consistent with international law.	Must extraterritorial application be consistent with international law?	019707.docx	LEGALEASE-00123760- LEGALEASE-00123761
United States v. One (1) 43 Foot Sailing Vessel Winds Will, License O.N. 531317/U.S. & Equip., 405 F. Supp. 879	221+138	No nation may exercise sovereignty over the waters of the high seas.	Can any nation exercise sovereignty over the waters of the high seas?	020585.docx	LEGALEASE-00123330- LEGALEASE-00123331
In re Funneman, 155 B.R. 197	289+559	Under Illinois law, partner has no right to possess partnership property except for partnership purposes.	Do partners have a right to possess partnership property for non-partnership purpose?	Partnership - Memo 168 - BP.docx	ROSS-003289403-ROSS-003289405
Deford v. Reynolds, 36 Pa. 325	289+804	A dormant partner may retire from the firm without giving notice of his withdrawal; but where A and B trade as A & Co., B is not a dormant partner, though a creditor be ignorant of the name of the other partner.	Does a dormant partner need to give notice of his retirement?	Partnership - Memo 182 - BP.docx	ROSS-003301567-ROSS-003301568
Vega v. La Movida, 294 Ga. App. 311	307A+3	Trial court may modify a ruling on a motion in limine.	Can trial court modify a ruling on a motion in limine?	029169.docx	LEGALEASE-00123079- LEGALEASE-00123080

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
S. Life & Health Ins. Co. v. Wynn, 29 Ala. App. 207	368+1	"Suicide" is a voluntary criminal self-destruction and was a felony at common law, and in Alabama is a crime involving moral turpitude.	Does suicide involve moral turpitude?	044458.docx	LEGALEASE-00122546-LEGALEASE-00122547
State v. Willis, 255 N.C. 473	368+3	Suicide is a crime, and one who aids and abets another in, or is accessory before the fact to self-murder is amenable to the law. Const. art. 11, S 1; G.S. S 14-1.	Is aiding and abetting a suicide a crime?	Suicide - Memo 43 - JS.docx	ROSS-003297331-ROSS-003297333
In re Extradition of Exoo, 522 F. Supp. 2d 766	166+5	Court would deny extradition demand made by authorities of Ireland, seeking custody of accused charged with aiding, abetting, and counseling commission of suicide; there was no comparable offense under federal law or law of West Virginia, where accused was found, and 25 states either had no relevant law or had aiding or abetting suicide statutes that were not substantially analogous to Ireland law, precluding necessary conclusion that crime of which accused was charged was felonious under law of preponderance of states.	Is aiding and abetting a suicide a crime?	044482.docx	LEGALEASE-00122729-LEGALEASE-00122731
Midland Tar Distillers v. M/T Lotos, 362 F. Supp. 1311	25T+133(2)	Agreement to arbitrate need not be embodied in any single writing or document.	Does an arbitration agreement have to be embodied in a single writing or document?	Alternative Dispute Resolution - Memo 426 - RK.docx	ROSS-003286611-ROSS-003286612
Cebe Farms v. United States, 116 Fed. Cl. 179	148+2.1	Physical taking under the Fifth Amendment occurs when government encroaches upon or occupies private land for its own proposed use. U.S. Const. Amend. 5.	Under what category of takings does the government seizes property?	017497.docx	LEGALEASE-00124302-LEGALEASE-00124304
State v. Benson, 183 N.C. 795	203+547	Murder in the second degree is the unlawful killing of a human being with malice, but without premeditation and deliberation.	What is murder in second degree?	019354.docx	LEGALEASE-00124273-LEGALEASE-00124274
Sampson v. Fed. Republic of Germany, 975 F. Supp. 1108	221+342	Act of state doctrine, prohibiting courts of one country from sitting in judgment on acts of the government of another done within its own territory, does not apply to commercial activities of a sovereign state.	Does the act of state doctrine apply to commercial activities of a sovereign state?	International Law - Memo # 438 - C - MLS.docx	ROSS-003301233-ROSS-003301235
Interamerican Ref. Corp. v. Texaco Maracaibo, 307 F. Supp. 1291	221+351	Federal jurisdiction being present, a showing of bona fide compulsion by a foreign government immunizes an otherwise illegal boycott. Sherman Anti-Trust Act, SS 1, 2, 15 U.S.C.A. SS 1, 2; Clayton Act, S 4, 15 U.S.C.A. S 15.	Is participation in what might otherwise be an illegal boycott immunized by acquiescence in the order of a foreign government?	020538.docx	LEGALEASE-00124432-LEGALEASE-00124433
United States v. Laden, 92 F. Supp. 2d 189	110+97(0.5)	Rule of lenity did not prohibit extraterritorial application of statutes prohibiting killing or attempted killing of a foreign official, official guest, or internationally protected person and use of a weapon of mass destruction against a national of the United States while such national is outside of the United States or against any property owned or used by the United States to conduct of foreign national on foreign soil. 18 U.S.C.A. SS 1116, 2332a(a).	Does the United States recognize principles of jurisdiction under international law by which a nation may reach conduct outside its territory?	020623.docx	LEGALEASE-00125069-LEGALEASE-00125071
White v. Manchester Enter., 871 F. Supp. 934	237+1	Private individuals need only establish simple negligence to recover for defamation under Kentucky law.	Is it sufficient for a private individual to prove only negligence to recover for defamation?	021091.docx	LEGALEASE-00125150-LEGALEASE-00125151
Orgain v. Butler, 478 S.W.2d 610	302+398	For a variance between pleadings and proof to be fatal, the variance must be substantial, misleading, and a prejudicial departure.	When will a variance between the pleading and the proof of claim be fatal?	Pleading - Memo 162 - RMM.docx	ROSS-003300280-ROSS-003300281

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Windus v. Great Plains Gas, 255 Iowa 587	228+343	Courts favor expeditious trials on merits, but under settled rules of procedure, and judgment will not be vacated when petitioner, through counsel, has ignored plain mandates of rule with ample opportunity to abide by them. 58 I.C.A. Rules of Civil Procedure, rules 215.1, 252, 253.	Do courts favor expeditious trials on the merits?	Pretrial Procedure - Memo # 476 - C - HAM.docx	ROSS-003298191-ROSS-003298192
Terex-Telelect v. Wade, 59 N.E.3d 298	30+3209	When reviewing a grant or denial of a motion in limine, the Court of Appeals applies the standard of review for the admission of evidence, which is whether the trial court abused its discretion.	Is the granting of a motion in limine an adjunct of the inherent power of trial courts which will not be reversed absent an abuse of discretion?	Pretrial Procedure - Memo # 820 - C - KA.docx	LEGALEASE-00015189-LEGALEASE-00015190
Jackson v. Joyner, 309 S.W.3d 910	307A+3	A motion in limine is not subject to the same safeguards as a motion for summary judgment or for partial summary judgment.	Is a motion in limine subject to the same safeguards as a motion for summary judgment?	Pretrial Procedure - Memo # 823 - C - KA.docx	ROSS-003295219-ROSS-003295220
Kaufman v. Comm'n for Lawyer Discipline, 197 S.W.3d 867	46H+1156	Attorney did not proffer during trial evidence of his substantive defenses, which was excluded by motion in limine, or obtain an adverse ruling from the trial court, and thus preserved nothing for review in connection with the exclusion of that evidence at trial which resulted in attorney's disbarment. Rules App.Proc., Rule 33.1(a)(2)(A).	Is the granting of a motion in limine a final ruling on the evidence or does it preserve anything for review?	038433.docx	LEGALEASE-00124449-LEGALEASE-00124450
Matter of Valley Rd. Sewerage Co., 154 N.J. 224	268+711	Evidence supported Board of Public Utilities' (BPU) rejection of proposed business plan of sewer utility opposing revocation of franchise rights and appointment of custodial receiver with power to sell utility, which was beset with financial, managerial, and environmental problems; utility had history of making and breaking promises to regulatory agencies, tax agreements and consent orders in business plan were contingent on resolution of issues in current proceeding, and current customers would be exposed to a tripling of their rates under utility's proposal. N.J.S.A. 48:2-14, 48:2-16, subd. 1(a), 48:2-23, 48:2-40.	"Does the Board of Public Utilities (BPU) have the power to supervise and regulate all public utilities and their property rights, equipment and franchises?"	042283.docx	LEGALEASE-00125061-LEGALEASE-00125062
Sw. Bell Tel. Co. v. Vollmer, 805 S.W.2d 825	372+851	Unless found to be unreasonable, telephone company tariffs carry the dignity of statutory law, and, ordinarily, a tariff is presumed reasonable. Vernon's Ann.Texas Civ.St. art. 1446c, S 1 et seq.	Do tariffs carry the dignity of statutory law?	042289.docx	LEGALEASE-00125294-LEGALEASE-00125295
Smith v. Safeguard Mut. Ins. Co., 212 Pa. Super. 83	228+271	Prothonotary has duty to record all judgments entered by court or confessed by parties before court and he may be authorized to act for another in same manner that any other person may be, but then his powers are derived from instrument under which he acts and not from his office. 12 P.S. S 739.	Who is a prothonotary of a Court?	013464.docx	LEGALEASE-00125637-LEGALEASE-00125639
State ex rel. Harvey v. Second Judicial Dist. Court, 117 Nev. 754	79+1	District courts have the authority to supervise county clerks when they are acting in the capacity of court clerk; when acting as court clerk, the county clerk is performing duties for the judicial system and is an arm of the court. Const. Art. 4, S 32.	Is a district court clerk an arm of the court?	013505.docx	LEGALEASE-00125673-LEGALEASE-00125674
Sweeney v. Philadelphia Record Co., 126 F.2d 53	237+10(1)	Under Pennsylvania law, it is "libel per se" to charge a public officer with a crime or misdemeanor in office and to impute criminality to the official conduct of a judge.	Is it libel per se to charge a person with misdemeanor?	021110.docx	LEGALEASE-00125610-LEGALEASE-00125611
Muchnick v. Post Pub. Co., 332 Mass. 304	237+97	In libel action, contention that newspaper editorial had been a fair comment upon matter of public interest and therefore privileged was matter of defense not open on demurrer to declaration.	Are matters of defence open on demurrer?	Pleading - Memo 169 - RMM.docx	ROSS-003300096-ROSS-003300097

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State ex rel. Steere v. Franklin Cty. Farm Bureau, 172 Kan. 179	23+4(2)	County Farm Bureaus were governmental agencies and once properly organized had all power and authority given by statute and were legal entities in and of themselves, but such organizations, being creatures of state, had only powers conferred on them by statutes, and such incidental powers as were necessary to carry statutory powers into effect. G.S.1949, 2-601 to 2-607, 17-1601 to 17-1631.	What powers does a public organization have?	006721.docx	LEGALEASE-00125784- LEGALEASE-00125785
Burshan v. Nat'l Union Fire Ins. Co. of Pittsburgh, PA, 805 So. 2d 835	386+6	Trespass to personal property is the intentional use of, or interference with, a chattel which is in the possession of another, without justification.	Can a bank account be regarded as chattel and the subject of a trespass?	047213.docx	LEGALEASE-00125816- LEGALEASE-00125817
Craigslist Inc. v. 3Taps Inc., 942 F. Supp. 2d 962	386+7	Under California law, tort of trespass to chattel does not encompass electronic communication that neither damages recipient computer system nor impairs its functioning.	What must a plaintiff establish to prevail on a claim for trespass to chattels based on access to a computer system?	047249.docx	LEGALEASE-00125840- LEGALEASE-00125841
Johnson v. Martin, 423 So. 2d 868	386+6	Damages to personal property may be recovered in a trespass action.	Can damages to personal property be recovered in an action for trespass?	Trespass - Memo 201 - RK.docx	ROSS-003299883-ROSS- 003299884
St. John v. Superior Court, 87 Cal. App. 3d 30	106+55	The section of the Government Code which authorizes a superior court to transfer from the county clerk to the court's executive officer certain "powers, duties and responsibilities required or permitted to be exercised or performed by the county clerk in connection with judicial actions, proceedings and records" simply authorizes a superior court to transfer from the county clerk to the court's executive officer functions performed by the county clerk, as county clerk, in connection with judicial actions and records; therefore, the enactment of the section did not violate the provision of the State Constitution which provides that the county clerk is ex officio clerk of the superior court. West's Ann.Const. art. 6, S 4; West's Ann.Gov.Code, S 69898(d).	Is a county clerk also the clerk of the superior court?	013490.docx	LEGALEASE-00126321- LEGALEASE-00126322
Yohe v. Nugent, 321 F.3d 35	237+49	Fair report privilege under Massachusetts law protects published reports of arrests by police from liability for defamation; thus, newspaper's publication of fact that one has been arrested, and upon what accusation, is not actionable, if true.	Does the publication of an arrest constitute a defamatory action?	021114.docx	LEGALEASE-00126303- LEGALEASE-00126304
Couture v. Lowery, 122 Vt. 239	185+152(1)	Statute of frauds is an affirmative defense which must be specially pleaded and when once asserted as a matter of defense, plea or answer is then inconsistent with idea of waiver. 12 V.S.A. S 1024; Fed.Rules Civ.Proc. rule 8(c), 28 U.S.C.A.	Should an affirmative defense be specially pleaded?	023036.docx	LEGALEASE-00126232- LEGALEASE-00126233
Kaufman v. Comm'n for Lawyer Discipline, 197 S.W.3d 867	46H+1156	Attorney did not proffer during trial evidence of his substantive defenses, which was excluded by motion in limine, or obtain an adverse ruling from the trial court, and thus preserved nothing for review in connection with the exclusion of that evidence at trial which resulted in attorney's disbarment. Rules App.Proc., Rule 33.1(a)(2)(A).	"Is the granting of a motion in limine not a final ruling on the evidence, which preserves nothing for review?"	Pretrial Procedure - Memo # 864 - C - TJ.docx	ROSS-003286660-ROSS- 003286661

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Gen. Tel. Co. of Sw. v. City of Perryton, 552 S.W.2d 888	92+2426	Fixing and regulating utility rates is a governmental function inherent in state; the function is legislative in character, and legislature may delegate power through rate-making governmental agencies or to municipal corporations as to utilities operating within limits of such municipal corporations.	Does a city have an inherent power to regulate a utility?	Public Utilities - Memo 178 - AM.docx	ROSS-003286732-ROSS-003286733
Russell v. Am. Real Estate Corp., 89 S.W.3d 204	386+6	"Trespass to personalty" is an injury to, or interference with, possession of the property, unlawfully, with or without the exercise of physical force.	What is trespass to personalty?	047211.docx	LEGALEASE-00125999-LEGALEASE-00126000
Weicht v. Suburban Newspapers of Greater St. Louis, 32 S.W.3d 592	386+6	A "trespass to personal property" is defined as a wrongful taking of chattels.	Can the wrongful taking of chattels constitute a trespass to personal property?	047218.docx	LEGALEASE-00126008-LEGALEASE-00126009
Poff v. Hayes, 763 So. 2d 234	386+6	Trespass to real property is similar to trespass to chattels in that trespass, generally, is a wrong against the right of possession.	Is trespass a wrong against the right of possession?	Trespass - Memo 182 - RK.docx	ROSS-003286428
Fordham v. Eason, 351 N.C. 151	386+6	The basis of a trespass to chattel cause of action lies in injury to possession.	What is the basis of a trespass to chattel cause of action?	047227.docx	LEGALEASE-00126028-LEGALEASE-00126029
Calabrese v. McHugh, 170 F. Supp. 2d 243	13+61	In Connecticut, cause of action accrues when plaintiff suffers actionable harm.	Does cause of action accrue when plaintiff suffers an actionable harm?	Action - Memo # 124 - C - UG.docx	ROSS-003313356-ROSS-003313357
In re Estate of Velasco, 214 S.W.3d 213	30+3226	Whether a party has standing to sue is a question of law that the Court of Appeals reviews de novo.	Is a party's standing to sue a question of law?	005665.docx	LEGALEASE-00126572-LEGALEASE-00126573
Booker v. Real Homes, 103 S.W.3d 487	241+43	Cause of action generally accrues when wrongful act produces injury, regardless of when plaintiff learns of the injury; there are exceptions, however, such as the "discovery rule," which determines when the cause of action accrued where plaintiff could not have known of his injury when it occurred.	Is occurrence of an injury essential for a cause of action?	005736.docx	LEGALEASE-00126676-LEGALEASE-00126677
Nationwide Ins. Co. v. Ohio Dep't of Transp., 61 Ohio Misc. 2d 761	13+1	After cause of action has accrued, it can neither be taken away nor diminished; cause of action accrues when claim or right on which it is founded has matured so that action can be brought upon it, which is usually completed at moment when wrong done by defendant produces injury to plaintiff.	Can a cause of action be taken away or diminished after it has accrued?	Action - Memo # 302 - C - VA.docx	ROSS-003289867
Pasternak v. Robin, 511 P.2d 529	13+63	Mere delay, short of the running of the applicable statute of limitations, does not in and of itself constitute "laches."	"Does a mere delay in and of itself constitute ""laches""?"	006022.docx	LEGALEASE-00126648-LEGALEASE-00126649
Memphis & C. Ry. Co. v. Pace, 282 U.S. 241	200+121	Construction and maintenance of serviceable roads is public purpose for which property may be taxed by state.	Can highways or serviceable roads be taxed by the state?	018918.docx	LEGALEASE-00126620-LEGALEASE-00126621
Tectrade Int'l Ltd. v. Fertilizer Dev. & Inv., B.V., 258 A.D.2d 349	302+8(7)	Provisions of the parties' contract prevail over conclusory allegations of the complaint.	Do provisions of a contract prevail over conclusory allegations of the complaint?	022893.docx	LEGALEASE-00126692-LEGALEASE-00126693
Kelley v. Mallory, 202 Or. 690	302+8(1)	Conclusion of law in pleading is not issuable, requires no denial, does not aid the pleading, and amounts to a nullity.	Does a conclusion of law require denial?	023052.docx	LEGALEASE-00126704-LEGALEASE-00126705
Benavides v. E. New Mexico Med. Ctr., 338 P.3d 1265	413+1	Rights of workers and rights of employers must be subject to same standards under Workers' Compensation Act. West's NMSA S 52-1-1 et seq.	Should the rights of workers and rights of employers be subject to same standards under Workers' Compensation Act?	048593.docx	LEGALEASE-00126712-LEGALEASE-00126713
Boynton v. Renwick, 46 Ill. 280	83E+481	The legal title to a note cannot be transferred by assignment by a separate instrument.	Can the legal title to a note be transferred by assignment by a separate instrument?	009092.docx	LEGALEASE-00126920-LEGALEASE-00126922
Texas v. United States, 523 U.S. 296	170B+2121	Claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or may not occur at all.	Is mere threat to take action on the occurrence of some uncertain future event a taking?	Eminent Domain - Memo 298 - GP.docx	LEGALEASE-00016855-LEGALEASE-00016856

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Warnick v. Warnick, 133 P.3d 997	289+816	Assuming the trial court valued the partnership using liquidation value, for purposes of determining the buyout cost of dissociating partner's interest, partnership was not entitled to a deduction of the hypothetical costs of sale, given that "liquidation value" was the fair market value of its assets sold separately, and deduction of hypothetical costs of sale would result in a value less than the fair market value of the assets. Wyo.Stat.Ann. S 17-21-701(b).	What is a buyout price in a partnership?	021957.docx	LEGALEASE-00127277- LEGALEASE-00127278
Miller v. Modern Motor Co. of Glendale, 107 Cal. App. 38	302+8(10)	Where waiver is relied upon, in bringing action, facts constituting waiver must be set forth.	Should facts constituting waiver be pleaded if a waiver is relied upon?	023066.docx	LEGALEASE-00126892- LEGALEASE-00126893
Chase Manhattan Mortg. Corp. v. Cook, 141 S.W.3d 709	366+41(5)	A party claiming subrogation must plead and prove the right to subrogation.	Should a party claiming subrogation plead and prove the right to subrogation?	Subrogation - Memo # 983 - C - SK.docx	ROSS-003312336-ROSS-003312337
Haynes v. Williams Fence & Aluminum, 805 So. 2d 215	413+11	The Workers' Compensation Act is intended to be remedial and not superfluously litigious in nature.	Is the workers compensation act remedial in nature?	048093.docx	LEGALEASE-00126959- LEGALEASE-00126961
Tampa Aluminum Prod. Co. v. Watts, 132 So. 2d 414	413+1	Workmen's compensation cases, like other lawsuits, must generally be determined by their peculiar facts.	Should each workers compensation case turn on its facts?	048244.docx	LEGALEASE-00126909- LEGALEASE-00126910
S. Bell v. MacDonald, 671 So. 2d 207	413+1	Employer must offer or furnish workers' compensation benefits when employer knows or should know that benefits are due.	Should an employer offer or furnish benefits when the employer knows or should know that benefits are due?	048459.docx	LEGALEASE-00126822- LEGALEASE-00126823
Benjamin v. Jacobson, 172 F.3d 144	92+2385	In requiring termination of consent decrees that are not supportable by requisite findings, Prison Litigation Reform Act (PLRA) termination provision does not violate constitutional separation of powers principle by requiring courts to reopen final judgments, since PLRA's termination provision does not require termination of any relief other than prospective relief, courts would have inherent authority to modify or terminate forward-looking injunctive provisions in light of changes in law or circumstances, and statutory definition of prospective relief expressly excludes compensatory monetary damages. 18 U.S.C.A. S 3626(b)(2).	"Do a court of equity have the power to modify an injunction in adaptation to changed conditions, though it was entered by consent?"	005900.docx	LEGALEASE-00127615- LEGALEASE-00127617
Pillow v. Pillow, 13 Tenn. 420	134+154	When a bill or petition for divorce in chancery contains a prayer for particular relief, and also for general relief, if the proof authorizes a decree according to the prayer for particular relief, it must be made, but if not, the court will proceed in the general prayer.	"When the prayer for relief includes a particular relief, a general relief, and a special relief, should the decree follow the special relief?"	006081.docx	LEGALEASE-00127826- LEGALEASE-00127827
Hamdi v. Rumsfeld, 296 F.3d 278	34+1	The authority to capture those who take up arms against the United States belongs to the Commander in Chief. U.S.C.A. Const. Art. 2, S 2, cl. 1.	Does the Commander in Chief have the authority to capture those who take up arms against America?	Armed Forces - Memo 6 - RK.docx	ROSS-003285915-ROSS-003285916

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
People v. Burrows, 73 Mich. App. 51	48A+339	Legislature, which intended to punish breaking and entering of motor vehicle with purpose to steal, determined that such conduct would be felonious if intent was to steal property of more than \$5 in value or if person in course of removing goods or property damaged any part of motor vehicle, and thus defendant, who raised hood and entered engine compartment with his hands and then severed battery cables and removed battery, was guilty of violating statutory provision pertaining to breaking or entering motor vehicle despite fact that damage to vehicle occurred after entering of vehicle had been completed. M.C.L.A. S 750.356a.	What are the elements of breaking and entering into a motor vehicle?	012646.docx	LEGALEASE-00128062-LEGALEASE-00128063
People v. Sherow, 196 Cal. App. 4th 1296	67+2	The lack of consent to enter the building at issue is not an element of burglary. West's Ann.Cal.Penal Code S 459.	Is lack of consent to enter a building an element of burglary?	Burglary - Memo 18 - RK.docx	ROSS-003327130-ROSS-003327131
State v. White, 115 Wis. 2d 696	67+9(0.5)	Essential elements of felonious breaking or entering are breaking or entering, that such breaking or entering was of any building, and that such breaking or entering was with intent to commit any felony or larceny therein.	What are the elements of breaking and entering?	Burglary - Memo 2 - RK.docx	LEGALEASE-00017524-LEGALEASE-00017525
Hawkins v. City of La Grande, 315 Or. 57	148+81.1	Personal property, such as livestock and crops, can be "taken" for purposes of takings clause of State Constitution, even if realty on which such personal property is located is not taken. Const. Art. 1, S 18.	"Can personal property, such as the livestock and crops be taken under the taking laws?"	Eminent Domain - Memo 323 - GP.docx	LEGALEASE-00017626-LEGALEASE-00017627
Thomson v. Iowa State Commerce Comm'n, 235 Iowa 469	317A+113	"Public convenience and necessity" are not synonymous, convenience being much broader and more inclusive than necessity, but effect must be given to both; necessity meaning reasonably necessary but not absolutely imperative.	Are the words public convenience and necessity synonymous and should effect be given to both?	042464.docx	LEGALEASE-00127746-LEGALEASE-00127748
Jindra v. Diederich Flooring, 181 Wis. 2d 579	366+35	One may waive subrogation explicitly in writing, or one may be held to have waived subrogation by conduct. (Per Day, J., with two Justices concurring and two Justices concurring in result.)	Can anyone waive subrogation explicitly in writing or by conduct?	043516.docx	LEGALEASE-00127627-LEGALEASE-00127628
Davis v. Gerstenslager Co., 302 F. Supp. 742	366+1	Subrogation is legal right, but it may be waived as part of insurance contract.	Can subrogation be waived as part of an insurance contract?	Subrogation - Memo # 1273 - C - SKG.docx	ROSS-003287057-ROSS-003287058
Labarre v. Rateau, 210 La. 34	157+89	The presumption of laches arising from lapse of time may be rebutted by competent testimony.	Can the presumption of laches be overcome by competent testimony?	Action - Memo # 728 - C - ES.docx	ROSS-003289894-ROSS-003289895
Aspero v. Shearson Am. Exp., 768 F.2d 106	25T+135	Although created by contract, duty to arbitrate does not necessarily end when contract is terminated.	Does the duty to arbitrate end when the contract terminates?	Alternative Dispute Resolution - Memo 467 - RK.docx	ROSS-003286970-ROSS-003286971
United States v. Scholz, 19 M.J. 837	258A+509	Government agencies, including those of the military, must comply with their own regulations, and the Navy is obligated to comply with Department of Defense directives.	"Do government agencies, including the military, have to comply with the regulations they promulgate?"	Armed Forces - Memo 44 - RK.docx	LEGALEASE-00018162-LEGALEASE-00018163
In re Sheena B., 83 A.D.3d 1056	307A+501	Courts may deny discontinuance to protect the interests of the parties. McKinney's CPLR 3217(b).	Can the courts deny discontinuance to protect the interests of the parties?	Pretrial Procedure - Memo # 952 - C - SK.docx	ROSS-003313121-ROSS-003313122
In re Rebel Rents, 307 B.R. 171	366+38	Like other equitable remedies, right to subrogation may be lost by waiver, laches, or estoppel.	Can a right to subrogation be lost?	043167.docx	LEGALEASE-00128541-LEGALEASE-00128543
Factory Mut. Ins. Co. v. Citizens Ins. Co. of Am., 2006 WI App 16	366+35	A party to a contract may waive subrogation explicitly in writing.	Can a party to a contract waive subrogation explicitly in writing?	Subrogation - Memo # 1223 - C - NE.docx	ROSS-003286793-ROSS-003286794

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Footlocker v. KK & J, 69 A.D.3d 481	366+35	A waiver of subrogation may bar a claim for gross negligence.	Can a waiver of subrogation bar a claim for gross negligence?	Subrogation - Memo # 1055 - C - NS.docx	ROSS-003317329-ROSS-003317330
Jindra v. Diederich Flooring, 181 Wis. 2d 579	217+3522	Underinsured motorist insurer waived any potential right to subrogation under subrogation clause of policy and relied upon reimbursement agreement in policy by paying insured driver amount of settlement agreed to between underinsured motorist's insurer and driver and, thus, underinsured motorist insurer had claim for reimbursement of amount paid against driver and did not have to bring subrogation claim against insurer of underinsured motorist's employer for such recovery in driver's action against underinsured motorist and his employer. (Per Day, J., with two Justices concurring and two Justices concurring in result.)	Can an entity waive a subrogation right for reimbursement?	043264.docx	LEGALEASE-00128373-LEGALEASE-00128374
Kiker v. Pennsylvania Fin. Responsibility Assigned Claims Plan, 742 A.2d 1082	366+35	Extinguishing a subrogee's statutory right to be reimbursed is generally disfavored.	Is extinguishing a subrogee's statutory right to be reimbursed disfavored?	Subrogation - Memo # 1112 - C - ES.docx	ROSS-003330944-ROSS-003330945
Flott v. Wenger Mixer Mfg. Co., 189 Kan. 80	366+35	Right to subrogation may be waived or subrogee may be estopped to assert right.	Can a right to subrogation be waived or subrogee be estopped to assert a right?	Subrogation - Memo # 1115 - C - ES.docx	ROSS-003312246-ROSS-003312247
Fairfield Dev. Co. v. Jackson, 438 So. 2d 664	13+62	Suit is premature if it is brought before right to enforce it has accrued and such prematurity is determined by fact existing at time suit is filed; evidence may be considered in assessing prematurity. LSA-C.C.P. arts. 423, 930.	When does an action become premature?	006335.docx	LEGALEASE-00128774-LEGALEASE-00128775
Exch. Mut. Ins. Co. v. Haskell Co., 742 F.2d 274	25T+141	Surety on performance bond was bound by arbitration clause where performance bond incorporated by reference the terms of subcontract, the subcontract incorporated by reference the general contract and the general contract imposed obligation to submit all unresolved disputes to arbitration, and same was true though it was surety, which did not sign general contract, that sought to avoid arbitration.	Can performance bonds incorporate a duty to arbitrate by referencing a subcontract?	Alternative Dispute Resolution - Memo 478 - RK.docx	LEGALEASE-00018569-LEGALEASE-00018570
Ditts v. Lonsdale, 49 Ind. 521	289+468	Nominal partners are those who appear, or are held out to the world, as partners, but who have no real interest in the firm or business.	Does a nominal partner have any interest in the firm?	021797.docx	LEGALEASE-00128902-LEGALEASE-00128903
Hensel Phelps Const. Co. v. C.I.R., 703 F.2d 485	289+482	Intent of parties is critical factor in determining when partnership began.	Is the intent of the parties a critical factor in determining when a partnership shall commence?	Partnership - Memo 232 - RK.docx	LEGALEASE-00018700-LEGALEASE-00018701
Bader v. Cox, 701 S.W.2d 677	289+950	A partnership does not terminate upon dissolution but continues until winding up is completed. Vernon's Ann.Texas Civ.St. art. 6132b, S 30.	Does a partnership continue after dissolution for the purpose of winding up?	022024.docx	LEGALEASE-00128950-LEGALEASE-00128951
King Cty. Council v. King Cty. Pers. Bd., 43 Wash. App. 317	307A+501	Plaintiff in civil action has absolute right to voluntary dismissal under CR 41.	Does a plaintiff in a civil action have an absolute right to a voluntary dismissal?	Pretrial Proceedure - Memo # 1147 - C - TJ.docx	ROSS-003328649-ROSS-003328650
Tomsha v. City of Colorado Springs, 856 P.2d 13	413+1	There is no constitutionally protected civil right in workers' compensation benefits. 42 U.S.C.A. S 1981.	Is there a constitutionally protected civil right in workers compensation?	047717.docx	LEGALEASE-00128722-LEGALEASE-00128723

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
T.N. v. I.B., 188 So. 3d 675	30+4	The proper method to challenge an injunction is by direct appeal. Rules App.Proc., Rule 4(a)(1).	Is a direct appeal the proper method to challenge an injunction?	008188.docx	LEGALEASE-00129070-LEGALEASE-00129071
Meckler v. Hecht Rubber Corp., 190 So.2d 186	73+5(1)	A writ of certiorari would not be issued to review order of circuit court setting aside summary final judgment previously entered in favor of petitioner in absence of showing of any material injury for which petitioner would have no adequate remedy by appeal, since, even if grounds recited in order setting aside summary final judgment were insufficient in law, other meritorious grounds might be shown on appeal from final judgment.	Will courts grant certiorari to review an order denying summary judgment?	Appeal and error - Memo 41 - RK.docx	ROSS-003326079-ROSS-003326080
Burney v. Hargraves, 264 Ark. 680	30+10	Neither mandamus nor prohibition nor certiorari can be used as a substitute for appeal. Supreme Court Rules, rule 16.	"Can mandamus, prohibition, or certiorari be used as a substitute for appeal?"	Appeal and error - Memo 42 - RK.docx	ROSS-003327744-ROSS-003327745
Ebenstein & Ebenstein, P.C. v. Smith Thibault Corp., 20 Conn. App. 23	30+21	Neither the parties nor the trial court can confer jurisdiction upon the Appellate Court.	Can a trial court confer jurisdiction upon an appellate court?	008263.docx	LEGALEASE-00129546-LEGALEASE-00129547
Hughes v. York Cty. Dep't of Soc. Servs., 36 Va. App. 22	30+322	A "necessary party" to an appeal is one whose interests are likely to be defeated or diminished by a successful appeal.	Who is a necessary party for the purpose of an appeal?	008278.docx	LEGALEASE-00129587-LEGALEASE-00129588
People v. Johnson, 129 Ill. App. 3d 399	106+100(1)	Decision by Supreme Court that burglary and residential burglary are separate and mutually exclusive offenses did not announce new rule of law, but merely applied statutory law to facts presented, and thus could be applied retroactively to collateral review of conviction which was pending at time of decision. Ill.Rev.St.1989, ch. 38, P 9-1(a)(3), 19-1(a), 19-3(a).	Are burglary and residential burglary mutually exclusive offenses?	013203.docx	LEGALEASE-00129624-LEGALEASE-00129626
Ashley v. State, 527 S.W.2d 302	67+2	Word "crime" in burglary statutes includes misdemeanors as well as felonies. Code 1972, SS 97-17-41, 97-17-43.	Does the crime of burglary include felonies and misdemeanors?	Burglary - Memo 60 - RK.docx	ROSS-003314158-ROSS-003314159
Diaz v. State, 699 S.W.2d 683	67+3	Entry with intent to commit theft is element that distinguishes burglary from criminal trespass. V.T.C.A., Penal Code SS 30.02, 30.05.	How is burglary distinguished from criminal trespass?	013249.docx	LEGALEASE-00129659-LEGALEASE-00129660
Bibb v. State, 352 So. 2d 840	67+3	Intent to steal or commit a felony is an essential part of the gravamen of the crime of burglary.	Is intent an essential part of burglary?	013251.docx	LEGALEASE-00129661-LEGALEASE-00129662
O'Leary v. Shipley, 313 Md. 189	79+6	Trial court improperly applied Supreme Court's Elrod-Branti political patronage test in adjudicating deputy clerk's claim that she had not been reappointed by clerk of court after unsuccessfully running against clerk in general election; trial court should have applied Pickering-Mt. Healthy test, as deputy clerk had alleged that her overt expressive conduct in challenging clerk in election was considered by clerk and played a role in her dismissal.	Is the Elrod-Branti political patronage test used to show political patronage as the sole motive of a discharge?	013354.docx	LEGALEASE-00129673-LEGALEASE-00129674
Wiltz v. Esso Standard Oil Co., 126 So. 2d 649	302+11	A plaintiff is not required to set forth details of proof or of evidence which he relies on, and only allegations of fact that are required in a petition are those of ultimate facts which are conclusions drawn from evidentiary facts.	Are ultimate facts conclusions drawn from evidentiary facts?	023103.docx	LEGALEASE-00129169-LEGALEASE-00129170
Washington-Youree Hotel Co. v. Union Indem. Co., 146 So. 342	302+228.19	Exception of no cause of action admits well-pleaded facts, but not conclusions of law.	Does an exception of no cause of action admit conclusions of law?	023109.docx	LEGALEASE-00129243-LEGALEASE-00129244

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Martin v. Cook, 68 Cal. App. 3d 799	307A+594.1	Exceptions to operation of statute providing for dismissal for want of prosecution must be strictly construed. West's Ann.Code Civ.Proc. S 583(a, b).	Should the exceptions to the operation of dismissal statutes be strictly construed?	Pretrial Procedure - Memo # 1038 - C - Kl.docx	LEGALEASE-00019287- LEGALEASE-00019289
Yell Cty. Tel. Co. v. Taylor, 336 Ark. 108	307A+501	Right to a voluntary nonsuit rests solely with plaintiffs. Rules Civ.Proc., Rule 41(a).	Does the right to a voluntary nonsuit rest solely with plaintiffs?	041210.docx	LEGALEASE-00129370- LEGALEASE-00129371
Perdue v. Cruse, 38 So. 3d 1235	141+36(3)	Evidence that enclosed estate had long been used as a residence was insufficient to support trial court's finding that a predial servitude existed such as to allow the placement of a water service line across servient tenement holders' property, outside of original right of passage, in servient tenement holders' action for trespass, where no evidence was presented that indicated a predial servitude had been created by convention or acquired by prescription. LSA-C.C. art. 689 et seq.	Is an enclosed estate granted the right of servitude of passage for utilities?	042519.docx	LEGALEASE-00129231- LEGALEASE-00129232
Bridas S.A.P.I.C. v. Gov't of Turkmenistan, 345 F.3d 347	25T+141	Typically, a guarantor cannot be compelled to arbitrate on the basis of an arbitration clause in a contract to which it is not a party. 9 U.S.C.A. S 1 et seq.	Can a guarantor be compelled to arbitrate based on an arbitration clause in a contract?	007340.docx	LEGALEASE-00130197- LEGALEASE-00130198
Nationwide Mut. Ins. Co. v. Home Ins. Co., 330 F.3d 843	25T+141	Arbitration panel may not determine rights or obligations of non-parties to arbitration. 9 U.S.C.A. S 1 et seq.	Can an arbitration panel determine the rights or obligations of non-parties to arbitration?	007348.docx	LEGALEASE-00130205- LEGALEASE-00130206
Besemer v. Bd. of Cty. Comm'rs, Brown Cty., 357 N.W.2d 365	79+33	District court has broad discretion under statute allowing review of salary set for clerk of court and deputy clerks to adjust disputed salaries. M.S.A. SS 485.018, subd. 7, 487.13.	Does the district court have the discretion to adjust salaries?	Clerks of court - Memo 112 - RK.docx	LEGALEASE-00019608- LEGALEASE-00019609
Messmer v. State Farm Cty. Mut. Ins. Co. of Texas, 972 S.W.2d 774	307A+501	Plaintiff's right to nonsuit is absolute and trial judge has no discretion to refuse to grant dismissal.	Is a plaintiff's right to nonsuit an absolute one?	025899.docx	LEGALEASE-00129717- LEGALEASE-00129718
Schneck v. Mut. Serv. Cas. Ins. Co., 18 Wis. 2d 566	307A+742.1	Purposes of pretrial conference are to simplify issues and determine necessity or desirability of amendments to pleading. W.S.A. 269.65(1)(a, b), (2).	What are the purposes of a pretrial conference?	Pretrial Procedure - Memo # 1334 - C - SB.docx	ROSS-003300999-ROSS- 003301000
Rocky Mountain Exp. Co. v. Colquitt, 179 Cal. App. 2d 204	307A+742.1	The purpose of pretrial proceedings is to expedite and not to obstruct administration of justice.	Is a pretrial proceeding aimed at expedition and not obstruction of the administration of justice?	Pretrial Procedure - Memo # 1511 - C - VP.docx	ROSS-003301080-ROSS- 003301081
Kerley v. State, 89 Tex. Crim. 199	352H+147	It is not necessary that an indictment charging rape upon a girl under 18 years of age negative her previous unchastity.	Is chastity relevant in a rape indictment?	043059.docx	LEGALEASE-00130062- LEGALEASE-00130063
Cooks v. Neely Lumber Co., 275 So. 2d 386	413+1	Workmen's compensation law was not intended to impair lawful right to contract.	Did the Workmens Compensation law intend to impair the lawful right to contract?	047824.docx	LEGALEASE-00130143- LEGALEASE-00130144
Oil, Chem. & Atomic Workers' Int'l Union, Local 4-447 v. Chevron Chem. Co., 815 F.2d 338	231H+1549(6)	Issue of timely compliance with grievance procedure was question of procedural, not substantive arbitrability, and thus, in view of party's agreement that underlying substantive claim of wrongful dismissal was arbitrable under collective bargaining agreement, timing issue was also arbitrable.	Can procedural questions be arbitrated if the underlying substantive question is arbitrable as well?	007452.docx	LEGALEASE-00131421- LEGALEASE-00131422

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Fitzgerald v. Com., 11 Va. App. 625	135H+144	Double jeopardy did not prohibit defendant's convictions for destruction of private property and for burglary, as result of causing damage to property when breaking and entering building, in that each offense required proof of fact not required for the other; burglary could be proved without necessity of proving that private property was damaged or carried away, while destruction of private property could be proved without necessity of proving entry or intent to commit larceny. Code 1950, SS 18.2-91, 18.2-137.	Does burglary require damage to property?	013050.docx	LEGALEASE-00131305- LEGALEASE-00131306
Smith v. State Indus. Comm'n, 1938 OK 167	67+46(1)	Where defendant was either not guilty of committing any crime or was guilty of breaking and entering with intent to steal key to automobile which he was later found driving, court was not required to charge jury that it could find defendant not guilty of burglary in fourth degree but guilty of breaking and entering alone. 11 Del.C. SS 395, 3706.	What is burglary in the fourth degree?	Burglary - Memo 39 - RK.docx	ROSS-003285809-ROSS-003285810
Gibson v. Blanton, 483 S.W.2d 372	30+4525	Failure to grant a nonsuit timely filed is reversible error. Rules of Civil Procedure, rule 164.	"Is failure to grant a nonsuit timely filed, a reversible error?"	026127.docx	LEGALEASE-00130508- LEGALEASE-00130509
Sammons v. Doctors for Emergency Servs., P.A., 913 A.2d 519	307A+749.1	Scheduling orders are not merely guidelines but have full force and effect as any other order of the Superior Court.	Are scheduling orders mere guidelines?	026866.docx	LEGALEASE-00131133- LEGALEASE-00131134
Priest v. McConnell, 219 Neb. 328	307A+743	Pretrial conferences are conducted to simplify and narrow issues of case and to avoid traps and surprises.	Why are pretrial conferences conducted?	026974.docx	LEGALEASE-00130981- LEGALEASE-00130983
Oppenheim v. Straus, 210 A.D. 880	307A+331	The production of books and papers must be compelled by order of the court.	Should the production of books and papers be compelled by order of the court?	027326.docx	LEGALEASE-00131040- LEGALEASE-00131041
Milam v. Attaway, 195 Ga. App. 496	307A+749.1	Interpretation of pretrial order is within discretion of trial court.	Is the interpretation of pretrial order within the discretion of trial court?	Pretrial Procedure - Memo # 2076- C - KG.docx	ROSS-003301349-ROSS-003301350
Hall v. State Farm Fire & Cas. Co., 937 F.2d 210	170A+1923	Trial court has great discretion in interpreting pretrial order.	Is the interpretation of pretrial order within the discretion of trial court?	027379.docx	LEGALEASE-00130816- LEGALEASE-00130817
Bill DeLuca Enterprises v. Comm'r of Revenue, 431 Mass. 314	371+2001	Essence of any system of taxation is that it should produce revenue ascertainable, and payable to the government, at regular intervals, since only by such a system is it practicable to produce a regular flow of income and apply methods of accounting, assessment, and collection capable of practical operation.	What is the essence of any system of taxation?	Taxation - Memo # 107 - C - SU.docx	ROSS-003286784-ROSS-003286785
Am. Life & Acc. Ins. Co. of Kentucky v. Com., 173 S.W.3d 910	371+2001	The character of a tax is determined by its operation, effect, and incidents, not by the label the legislature appends in the statute.	How is the character of a tax determined?	Taxation - Memo # 182 - C - SS.docx	ROSS-003288242-ROSS-003288243
Alabama Power Co. v. Fed. Power Comm'n, 134 F.2d 602	371+2001	"Taxes" are annual compensation paid to government for annual protection and for current support of government and are generally an "expense" and not an "investment".	To whom is the tax paid to?	044976.docx	LEGALEASE-00130502- LEGALEASE-00130503
Arbuckle-Coll. City Fire Prot. Dist. v. Cty. of Colusa, 105 Cal. App. 4th 1155	371+2001	Taxes that provide revenues that are available for all purposes of the governmental entity are "general taxes" and include ad valorem property taxes; whereas, taxes that provide revenue for a specific or limited purpose are "special taxes."	When is a tax a general tax?	045338.docx	LEGALEASE-00130662- LEGALEASE-00130664

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Arbuckle-Coll. City Fire Prot. Dist. v. Cty. of Colusa, 105 Cal. App. 4th 1155	371+2001	Taxes that provide revenues that are available for all purposes of the governmental entity are "general taxes" and include ad valorem property taxes; whereas, taxes that provide revenue for a specific or limited purpose are "special taxes."	When is a tax a general tax?	Taxation - Memo # 51 - C - KBM.docx	LEGALEASE-00021245- LEGALEASE-00021247
Dukesherer Farms v. Ball, 405 Mich. 1	371+2001	Taxes are exactions or involuntary contributions of money which are sanctioned by law and enforceable by courts and which are imposed primarily for public rather than private purposes.	Is the collection of tax sanctioned by law and enforceable by courts?	045742.docx	LEGALEASE-00130491- LEGALEASE-00130493
Dukesherer Farms v. Ball, 405 Mich. 1	371+2001	Taxes are exactions or involuntary contributions of money which are sanctioned by law and enforceable by courts and which are imposed primarily for public rather than private purposes.	Is tax an exaction or involuntary contribution of money?	045765.docx	LEGALEASE-00130496- LEGALEASE-00130497
Bell v. City of Winter Park, Fla., 745 F.3d 1318	399+1	Municipal ordinance, allowing person residing in a dwelling unit to post "no loitering" sign and allowing city officer to enforce such prohibition against loitering within 50 feet of dwelling, on its face violated free speech rights, in that ordinance permitted private citizens to have municipality regulate speech on traditional public fora for any reason, and it provided no standards for enforcement, leaving officers free to enforce prohibition on basis of content or viewpoint of an individual's speech. U.S.C.A. Const.Amend. 1.	Can an officer enforce a posted no loitering sign?	047448.docx	LEGALEASE-00130635- LEGALEASE-00130636
HIM Portland v. DeVito Builders, 317 F.3d 41	25T+144	Property owner could not compel arbitration of dispute with construction contractor, pursuant to parties' contract, where contract's arbitration clause required request for mediation as condition precedent to arbitration, and neither owner nor contractor had requested mediation of the dispute. 9 U.S.C.A. S 1 et seq.	Is arbitration possible if mediation stands as a condition precedent?	007468.docx	LEGALEASE-00132387- LEGALEASE-00132388
State v. Brooks, 24 So. 3d 917	67+6	In order to constitute an "inhabited dwelling," for purposes of aggravated burglary statute, a person must live in the dwelling, but the person need not be present in the inhabited dwelling at the time of the burglary. LSA-R.S. 14:60.	What is an inhabited dwelling in the context of burglary?	Burglary - Memo 69 - RK.docx	ROSS-003326291-ROSS- 003326292
State v. Superior Court of Pierce Cty., 55 Wash. 328	79+6	A deputy county clerk is an ex officio clerk of the superior court in his county and his authority is coextensive with that of his principal. West's Ann.Gov.Code, SS 1194, 69841 et seq., 69843.	Is a deputy county clerk an ex-officio clerk of the superior court?	013542.docx	LEGALEASE-00131837- LEGALEASE-00131839
Newman Grove Creamery Co. v. Deaver, 208 Neb. 178	307A+742.1	Purpose of pretrial conference is to simplify and to narrow issues of case and to avoid traps and surprises.	What is the purpose of pretrial conference and what does it simplify?	026526.docx	LEGALEASE-00131746- LEGALEASE-00131747
Rosenbaum v. Texas Energies, 241 Kan. 295	307A+749.1	In determining breadth of pretrial order, order should be given liberal construction.	"In determining breadth of pretrial order, should an order be given liberal construction?"	Pretrial Procedure - Memo # 1973 - C - MS.docx	ROSS-003301525-ROSS- 003301526
Tumlison v. Harville, 237 Ark. 113	307A+331	Discovery statute contemplates that party may, for good cause, be afforded opportunity to examine documents which themselves constitute evidence or which may reasonably be expected to lead to discovery of evidence. Ark.Stats. SS 28-348(b), 28-356.	"Can a discovery statute contemplate that a party may, for good cause, be afforded an opportunity to examine documents which themselves constitute evidence?"	Pretrial Procedure - Memo # 2111 - C - ES.docx	LEGALEASE-00021664- LEGALEASE-00021665
Barham v. Hawk, 165 N.C. App. 708	307A+517.1	Once a plaintiff files a voluntary dismissal, it is as if the suit had never been filed. Rules Civ.Proc., Rule 41(a)(1), West's N.C.G.S.A. S 1A-1.	"When a plaintiff files a voluntary dismissal, is it as if the suit had never been filed?"	Pretrial Procedure - Memo # 2312 - C - NS.docx	ROSS-003313482-ROSS- 003313483

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
U.S. Bank Nat. Ass'n v. Rivera, 193 So. 3d 954	266+1800	Trial court lacked jurisdiction to enter discovery orders after mortgagee's voluntary dismissal of foreclosure action following grant of mortgagee's motion to vacate final foreclosure judgment based on irregularities in actions taken by former counsel for mortgagee; voluntary dismissal was jurisdictional and served to terminate the litigation, instantaneously divesting the lower court of jurisdiction to entertain further motions or to enter further orders that would have otherwise either disposed of the case on the merits or revived the original action. West's F.S.A. RCP Rule 1.540(B).	Does a voluntary dismissal irrevocably terminate an action?	027810.docx	LEGALEASE-00131766- LEGALEASE-00131768
Borger v. Conner, 210 A.2d 546	307A+749.1	Generally party is bound by pretrial order, but rigid adherence to it should not always be exacted.	Is a party bound to rigidly adhere to a pretrial order?	Pretrial Procedure - Memo # 2515 - C-BP.docx	ROSS-003301008-ROSS-003301009
Arbuckle-Coll. City Fire Prot. Dist. v. Cty. of Colusa, 105 Cal. App. 4th 1155	371+2001	Taxes that provide revenues that are available for all purposes of the governmental entity are "general taxes" and include ad valorem property taxes; whereas, taxes that provide revenue for a specific or limited purpose are "special taxes."	What are general taxes?	Taxation - Memo # 133 - C - KBM.docx	LEGALEASE-00022061- LEGALEASE-00022063
Hochstedler v. St. Joseph Cty. Solid Waste Mgmt. Dist., 770 N.E.2d 910	371+2002	Generally, a tax is an enforced contribution to provide for the support of government, whereas a fee is a charge for a particular benefit to the payer.	Can taxation be considered as optional?	044655.docx	LEGALEASE-00131536- LEGALEASE-00131537
Austin v. Centerpoint Energy Arkla, 365 Ark. 138	371+2001	A "tax" is a burden imposed by a government upon a taxpayer for the use and benefit of that government.	"Is ""tax"" imposed for the use and benefit of the government?"	Taxation - Memo # 224 - C - KI.docx	ROSS-003300287-ROSS-003300289
Circle C" Coal Co. v. Com., 628 S.W.2d 883	371+2001	Character of tax is not determined by label placed upon it by legislature, but by its operation and effect.	Is the character of a tax determined by its label?	Taxation - Memo # 227 - C - KI.docx	ROSS-003288268-ROSS-003288270
Huntington Pub. Co. v. Caryl, 180 W. Va. 486	371+2001	In tax matters, it is substance, not form of transaction, that determines tax liability.	Is it the form of transaction that determines tax liability in tax matters?	044884.docx	LEGALEASE-00131742- LEGALEASE-00131743
Weekes v. City of Oakland, 21 Cal. 3d 386	371+2001	The character of a tax is ascertained from its incidents, not its label; the legislative designation of a particular tax is persuasive but not determinative as to its nature. (Per Curiam, with three Justices concurring and two Justices concurring specially.)	Is the legislative designation of a particular tax persuasive as to its nature?	044948.docx	LEGALEASE-00132035- LEGALEASE-00132036
German v. Com., 410 Mass. 445	371+2001	"Tax" is revenue-raising exaction imposed through generally applicable rates to defray public expense; nature of monetary exaction will be decided by studying its operation rather than how it has been characterized by legislature.	How is the nature of a monetary exaction decided?	Taxation - Memo # 304 - C - CK.docx	ROSS-003331041-ROSS-003331042
People v. Herskowitz, 41 N.Y.2d 1094	63+1(1)	Scope of crime of bribery encompasses all public servants. Penal Law 1965, S 200.00.	Does the scope of the crime of bribery encompass all public servants?	Bribery - Memo #238 - C-CSS.docx	ROSS-003286672-ROSS-003286673
Northwestern Nat. Bank of Minneapolis v. Fox & Co., 102 F.R.D. 507	349B+27.34	Individual partners in accounting firm could be held jointly and severally liable under the securities law, as well as the common law, for any fraudulent acts committed by their copartners or the accounting firm itself in the course of partnership business. Securities Act of 1933, SS 12(2), 17(a), 15 U.S.C.A. SS 77l (2), 77q(a); Securities Exchange Act of 1934, S 10(b), 15 U.S.C.A. S 78j(b).	Will fraud committed while transacting the partnership business by one partner make the other partners liable?	022094.docx	LEGALEASE-00133497- LEGALEASE-00133498

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Batson v. Cherokee Beach & Campgrounds, 428 So. 2d 991	302+228.22	Mere allegations of negligence are not allegations of fact which must be accepted as true for adjudication of objection of no cause of action, but are conclusions of law. LSA-C.C.P. arts. 891, 931.	Are mere allegations of negligence allegations of fact?	Pleading - Memo 289 - RMM.docx	ROSS-003300873-ROSS-003300874
Fortenberry v. Weber, 18 Cal. App. 3d 213	307A+749.1	Normally, pretrial conference order will control as against inconsistent pleadings. Cal.Rules of Court, rule 216.	Will a pretrial conference order control as against inconsistent pleadings?	Pretrial Procedure - Memo # 2453 - C - MS.docx	ROSS-003288264-ROSS-003288265
Cottrell v. Warren, 18 Pa. 487	307A+331	The Act of February 27, 1798, 9 Sm.L. 303, 28 P.S. S 61, was intended to supply the want of a bill of discovery.	What act is intended to supply the want of a bill of discovery?	Pretrial Procedure - Memo # 2490 - C - PC.docx	ROSS-003327114-ROSS-003327115
Lee v. Kwong, 193 Cal. App. 4th 1275	307A+517.1	An arbitration is viewed as a trial on the merits, for purposes of a voluntary dismissal. West's Ann.Cal.C.C.P. S 581(b)(1), (c).	"Is an arbitration viewed as a trial on the merits, for purposes of a voluntary dismissal?"	028055.docx	LEGALEASE-00133395-LEGALEASE-00133396
Hopkins v. Ciba-Geigy Corp., 111 N.C. App. 179	307A+517.1	"Two-dismissal rule," which equates second voluntary dismissal with adjudication on the merits, applies only when plaintiff has twice dismissed action based on or including same claim.	"When does the ""two-dismissal rule"" apply?"	028222.docx	LEGALEASE-00133328-LEGALEASE-00133329
Sanford v. Dudley, 196 So. 3d 1106	307A+486	For the trial court to exercise its discretion to permit withdrawal of admission, the party seeking to withdraw an admission must first file a motion requesting that relief. Rules Civ.Proc., Rule 36.	Does a trial court have discretion to deny a request for leave to withdraw or amend an admission even when the two preconditions for seeking withdrawal from deemed admissions are established?	028409.docx	LEGALEASE-00132950-LEGALEASE-00132951
Thor Industries v. Indiana Dept. of State Revenue, 60 N.E.3d 308	307A+486	"Prejudice," within meaning of rule providing defense against withdrawal of deemed admissions on a showing of prejudice against the opponent of the withdrawal, does not mean that the party who has obtained the admission will lose the benefit of the admissions; rather, it means that the party has suffered a detriment in the preparation of his case. Trial Procedure Rule 36(B).	"What does ""prejudice"" mean under the law?"	Pretrial Procedure - Memo # 2828 - C - SB.docx	ROSS-003301623-ROSS-003301624
City of Houston v. Church, 554 S.W.2d 242	20+29	Entry and possession without claim of right is nothing more than a trespass and unless true owner has actual knowledge of hostile claim, possession must be so open, visible and notorious as to raise the presumption of notice that the rights of true owner are invaded intentionally and with purpose of asserting claim of title adverse to his, so potent that owner could not be deceived, in order to mature title by adverse possession.	Can the entry and possession of land without a claim of right be held as a trespass?	047342.docx	LEGALEASE-00133438-LEGALEASE-00133439
Murray v. Thompson, 136 Tenn. 118	211+1076	Negotiable Instruments Law, S 22, providing that indorsement of the instrument by an infant passes the property therein, merely makes the indorsement not void, and does not take away any right to disaffirm.	Is the indorsement by an infant on an instrument void?	010199.docx	LEGALEASE-00133678-LEGALEASE-00133679
In re Bakri's Estate, 109 N.Y.S.2d 654	8.30E+76	A check is a mere order upon a bank to pay from the drawer's account, and, until presented and paid, is revocable by drawer.	When can a drawer revoke a check?	010211.docx	LEGALEASE-00133584-LEGALEASE-00133585
Bay v. Shrader, 50 Miss. 326	8.30E+186	The test of the materiality of any indorsement or memorandum on the back or foot of a note is the time and the intent of it. If made before or at the time of the execution, it forms a part of it, and may control the obligation in some important particulars. But, being disconnected from the body of the instrument to which the maker's name is signed, it forms no original part of it, until shown to have been upon it when executed.	"Do memoranda or indorsement at the foot or on the back of the note or an instrument, when executed, constitute a part of the contract?"	010230.docx	LEGALEASE-00133670-LEGALEASE-00133671

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Freeman v. Leader Nat. Ins. Co., 58 S.W.3d 590	307A+517.1	A plaintiff's voluntary dismissal is effective as of the date it is filed. V.A.M.R. 67.02(a).	Is a plaintiff's voluntary dismissal effective as of the date it is filed?	028267.docx	LEGALEASE-00133628-LEGALEASE-00133629
Freeman v. Leader Nat. Ins. Co., 58 S.W.3d 590	307A+517.1	The trial court loses jurisdiction as of the date of dismissal of a case.	Does the trial court lose jurisdiction as of the date of dismissal of a case?	Pretrial Procedure - Memo # 2621 - C - KG.docx	ROSS-003304089-ROSS-003304090
United States v. Articles of Drug, 15 Cartons, Zenith Hydralazine HCL, Hydrochlorothiazide & Reserpine Tablets, 568 F. Supp. 29	198H+331	Where articles of drug seized were not being held for personal consumption by manufacturer, they were being "held for sale," both at time of seizure and at time of filing of complaint, within meaning of statute providing for forfeiture of any drug that is adulterated or misbranded while held for sale after shipment in interstate commerce, even though manufacturer voluntarily withheld them from sale pending outside laboratory testing results and notwithstanding fact that manufacturer may have intended in future to cure any adulteration of drugs. Federal Food, Drug, and Cosmetic Act, S 304(a)(1), 21 U.S.C.A. S 334(a)(1).	Do the government has a right to forfeit adulterated food or drug after it has been shipped in interstate commerce?	Adulteration -Memo 11-VP.docx	LEGALEASE-00023517-LEGALEASE-00023518
In re Kang Jin Hwang, 396 B.R. 757	83E+481	Under California law, fundamental feature of negotiable instruments is that they are transferred by delivery of possession, not by contract or assignment. West's Ann.Cal.Com. Code SS 3201, 3203.	What is the fundamental feature of a negotiable instrument?	010939.docx	LEGALEASE-00133776-LEGALEASE-00133777
People v. Foley, 206 Ill. App. 3d 709	352H+151	Type of sexual penetration is not element of offense of criminal sexual assault or aggravated criminal sexual abuse, and its inclusion in indictment is merely surplusage. S.H.A. ch. 38, PP 12-13(a)(1, 3), 12-16(d).	Is the type of sexual penetration an element in sexual offenses?	043049.docx	LEGALEASE-00133838-LEGALEASE-00133839
In re W. Iowa Farms Co., 135 F.3d 1257	83E+417	Endorsement consisting simply of name of payee turns check into bearer paper; anyone who comes into possession of it can assert ownership, and persons dealing with instrument in good faith and without reasonable suspicion can deal with that person as true owner.	How is a check turned to bearer paper?	010933.docx	LEGALEASE-00133980-LEGALEASE-00133981
United States v. Terry, 707 F.3d 607	63+1(1)	If a public official receives money through promises to improperly employ his public influence, he has accepted a bribe. 18 U.S.C.A. S 201(b)(2).	Under what condition would receipt of money by an official be considered a bribe?	Bribery - Memo #172 - C-JL.docx	ROSS-003289164-ROSS-003289165
United States v. O'Brien, 994 F. Supp. 2d 167	63+1(1)	Phrase "anything of value" in bribery statute is construed broadly, and includes intangible rights and benefits. 18 U.S.C.A. S 666.	"How is ""anything of value"" construed in a bribery prosecution?"	011283.docx	LEGALEASE-00134479-LEGALEASE-00134480
Miller v. City of Wauwatosa, 87 Wis. 2d 676	200+81	Owner of land abutting a public highway holds title to center of highway subject to public easement and when highway is discontinued or vacated land reverts to owner unencumbered by easement. W.S.A. 80.32(3).	"Does the abutting landowner, own the center of the highway?"	018936.docx	LEGALEASE-00134511-LEGALEASE-00134512

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Gower v. Lamb, 282 S.W.2d 867	302+8(17)	In petition for damage allegedly done to plaintiff's parked automobile as result of being struck by defendant's vehicle, driven at time by thief, allegation that plaintiff's damage had been result of negligence by defendant was not a conclusion, but an ultimate fact, which could be pleaded as such, and therefore petition could be regarded as charging common-law negligence as well as statutory negligence, notwithstanding fact that main reliance was upon violation of statute prohibiting motorist to leave unattended a vehicle with ignition unlocked. Section 304.150 RSMo 1949, V.A.M.S.	Can negligence be pleaded as such?	Pleading - Memo 294 - RMM.docx	ROSS-003290562-ROSS-003290563
Hesse v. Wagner, 475 S.W.2d 55	302+1	Pleadings in the case are for the court and the parties, not the jury; they define and limit the issues.	Do the pleadings limit and define issues of the case?	023279.docx	LEGALEASE-00134481-LEGALEASE-00134482
In re Cole, 428 B.R. 747	307A+517.1	Under Ohio law, where litigants agree to a voluntary dismissal, the action is treated as if it had never been commenced. Ohio Rules Civ.Proc., Rule 41.	Does a voluntary dismissal render the action as if it had never been commenced?	Pretrial Procedure - Memo # 2940 - C - SK.docx	ROSS-003290331-ROSS-003290332
Oliphant Fin. v. Galaviz, 299 S.W.3d 829	307A+483	Facts that have been deemed admitted may not be contradicted by evidence at the trial. Vernon's Ann.Texas Rules Civ.Proc., Rules 198.2(c), 198.3.	May facts that have been deemed admitted not be contradicted by evidence at the trial?	029925.docx	LEGALEASE-00134579-LEGALEASE-00134581
Gustafson v. Riggs, 10 Ariz. App. 74	371+2001	Taxes fall naturally into three classifications: (1) capitation or poll taxes, (2) taxes on property, (3) excises.	How many classifications do taxes naturally fall into?	045073.docx	LEGALEASE-00134150-LEGALEASE-00134151
Elton v. Anheuser-Busch Beverage Grp., 50 Cal. App. 4th 1301	386+14	Trespass may be committed by consequential and indirect injury as well as by direct and forcible injury. West's Ann.Cal.C.C.P. S 1021.9.	Can trespass be committed due to a consequential injury?	047358.docx	LEGALEASE-00134898-LEGALEASE-00134899
Tracfone Wireless v. Blue Ocean's Distrib., 616 F. Supp. 2d 1284	170B+2235	While valid arbitration clauses are to be enforced under the Federal Arbitration Act, they do not oust district courts of their jurisdiction. 9 U.S.C.A. S 3.	Does section 3 of the Arbitration Act enables the court to stay the trial until arbitration is over?	007562.docx	LEGALEASE-00135847-LEGALEASE-00135848
McGuire, Cornwell & Blakey v. Grider, 771 F. Supp. 319	25T+216	Arbitrator's unwillingness to arbitrate parties' dispute over legal fees did not affect enforceability of arbitration agreement, absent showing that naming of arbitrator was central to parties' agreement to arbitrate. Fed.Rules Civ.Proc.Rule 60(b)(2), 28 U.S.C.A.; 9 U.S.C.A. S 5.	Does the unwillingness of the arbitrator to arbitrate the parties dispute affect the enforceability of the arbitration agreement?	007582.docx	LEGALEASE-00135324-LEGALEASE-00135325
Haywood v. State, 283 Ga. App. 568	210+923	"Surplusage" is the allegation of matter wholly foreign and impertinent to the cause and all matter beyond the circumstances necessary to constitute the action.	"What is ""mere surplusage""?"	Bribery - Memo #334 - C-EB.docx	ROSS-003291579-ROSS-003291581
Vaughn v. State, 13 Ariz. App. 15	67+2	Burglary is distinctly different crime from grand theft, requiring no actual taking. A.R.S. S 13-1641.	Is grand theft different from burglary?	012644.docx	LEGALEASE-00135864-LEGALEASE-00135865
State v. Ralph Williams N. W. Chrysler Plymouth, 87 Wash. 2d 298	67+2	Burglary is an offense against the security interest in possession of property rather than an offense against the legal title or ownership of the property. T.C.A. S 39-14-402(a)(4).	Is burglary an offense against possession?	Burglary - Memo 120 - KJS.docx	ROSS-003302750-ROSS-003302752
People v. Seymour, 28 Misc. 2d 224	67+9(1)	Breaking out of building after having committed larceny therein constitutes third-degree burglary. Penal Law, S 404, subd. 2.	Does breaking out constitute burglary?	Burglary - Memo 122 - JS.docx	ROSS-003331002-ROSS-003331004

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Kessinger Hunter Mgmt. Co. v. Davis, 782 S.W.2d 426	307A+716	Trial court may exercise discretion when attorney legislator requests continuance; filing of application for legislative continuance does not divest trial court of jurisdiction and preclude further proceedings. V.A.M.R. 65.06.	Can a trial court exercise discretion when an attorney-legislator requests a continuance?	029379.docx	LEGALEASE-00135457-LEGALEASE-00135458
Janczyk v. Davis, 125 Mich. App. 683	307A+483	Generally, where party fails to answer, requests are taken as admitted. GCR 1963, 312.1.	"When a party fails to answer, are requests taken admitted?"	Pretrial Procedure - Memo # 3505 - C - ES.docx	ROSS-003304419-ROSS-003304420
Horshaw v. Cook, 16 Ga. 526	307A+716	The mere absence of counsel, with the papers of the defendant, is not a sufficient ground for the continuance of a cause.	Does the mere absence of the counsel constitute a sufficient ground for a continuance?	Pretrial Procedure - Memo # 3573 - C - SS.docx	ROSS-003289780-ROSS-003289781
Brigante v. Huang, 20 Cal. App. 4th 1569	307A+478	Trial court's discretion to grant appropriate relief from requests for admissions which are deemed admitted when defendant cannot be found and no properly verified response is filed is not limited to ordering that entire set of requests for admission be deemed admitted or relieving responding party from answering at all; court is empowered to fashion remedy that will do justice in situation with which it is confronted and may, for example, order that only some matters be deemed admitted or may relieve defense from admitting or denying requests on condition that it demonstrate continuing and vigorous effort to locate defendant. West's Ann.Cal.C.C.P. S 2033.	Can an attorney verify a response to requests for admission (RFA) on behalf of an individual party?	Pretrial Procedure - Memo # 3926 - C - MS.docx	ROSS-003290580-ROSS-003290581
City of Columbus v. Atlanta Cigar Co., 111 Ga. App. 774	371+2001	Basic nature of tax must be determined by what it does and not by name given it by taxing authority.	Is the basic nature of a tax determined by its name or label?	Taxation - Memo # 450 - C - SS.docx	ROSS-003291310-ROSS-003291311
Owens v. Fosdick, 153 Fla. 17	371+2001	The nature of a tax must be determined by its operation rather than by its terminology.	Should the nature of the tax be determined by its operation rather than by its terminology?	045242.docx	LEGALEASE-00135037-LEGALEASE-00135038
Alabama Power Co. v. Fed. Power Comm'n, 134 F.2d 602	371+2001	"Taxes" are annual compensation paid to government for annual protection and for current support of government and are generally an "expense" and not an "investment".	Are taxes an expense?	045244.docx	LEGALEASE-00135049-LEGALEASE-00135050
Am. Transmission v. Channel 7 of Detroit, 239 Mich. App. 695	386+1	A "trespass" is an unauthorized invasion upon the private property of another.	Is trespass an unauthorized invasion of the private property of another?	047366.docx	LEGALEASE-00135238-LEGALEASE-00135239
Boulware v. Carbajal, 138 Ariz. 118	48A+6	Amendment changing statute, which had required that there be an intersection and sidewalks on opposite sides of a highway in order for there to be an unmarked crosswalk, to define an unmarked crosswalk as existing at a "T" intersection affected substantive, and not merely procedural, rights, and therefore could not be given retroactive effect. A.R.S. S 28-602, subd. 2(a).	When does an unmarked crosswalk exist?	018923.docx	LEGALEASE-00136729-LEGALEASE-00136730
Howard v. Howard, 200 N.C. 574	106+512	"Comity" is recognition which one nation allows within its territory to legislative, executive, or judicial acts of another nation.	What is comity or international comity?	020696.docx	LEGALEASE-00136525-LEGALEASE-00136527
Vicksburg, S. & P. Ry. Co. v. Scott, 47 La. Ann. 706	307A+716	Physical inability of counsel to be present and manage the trial of a case is a sufficient ground for continuance.	Is the illness of a counsel and the counsels inability to be present and manage the trial of a case a sufficient ground for continuance?	Pretrial Procedure - Memo # 3284 - C - KG.docx	LEGALEASE-00026145-LEGALEASE-00026146
Thompson v. Thompson, 149 Tex. 632	307A+716	The withdrawal of a party's attorney does not automatically entitle the party to a pretrial continuance.	Does the withdrawal of a party's attorney not automatically entitle the party to a pretrial continuance?	029340.docx	LEGALEASE-00136167-LEGALEASE-00136168

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Moss v. Malone, 880 S.W.2d 45	307A+716	When ground for continuance is withdrawal of counsel, movant must show that failure to be represented at trial was not due to her fault or negligence.	"When ground for continuance is withdrawal of counsel, must a movant show that failure to be represented at trial was not due to her fault or negligence?"	029346.docx	LEGALEASE-00136171- LEGALEASE-00136172
Hatcher v. Bowen, 74 Ga. 840	307A+716	Absence of counsel in attendance on other courts is not a favored ground for a postponement.	Is absence of counsel in attendance on other courts not a favoured ground for a postponement?	029404.docx	LEGALEASE-00136215- LEGALEASE-00136216
City of San Antonio v. Stevens, 126 S.W. 666	307A+723.1	An application for continuance must state, as provided by Rev.St.1895, art. 1278, Vernon's Ann.Civ.St. art. 2168, the residence of the witnesses for whom continuance is sought.	Should an application for continuance state the residence of the witnesses?	030307.docx	LEGALEASE-00137063- LEGALEASE-00137064
Purdy & Fitzpatrick v. State, 71 Cal. 2d 566	24+116	Discrimination on basis of alienage invokes strict standard of review.	Does discrimination or classification on the basis of alienage require strict standard of review?	007001.docx	LEGALEASE-00137526- LEGALEASE-00137527
Riedman v. Macht, 98 Ind. App. 124	8.30E+296	Law merchant is part of common law and governs bills of exchange, but does not at common law apply to promissory notes which at common law were not negotiable as bills of exchange.	What is the Law Merchant?	Bills and Notes - Memo 208- GP.docx	ROSS-003305024
Gilbert v. United States, 165 F.3d 470	83+82.6	Drug trafficking is an economic enterprise that substantially affects interstate commerce in numerous ways.	Does possession of illegal drugs impact interstate commerce?	011796.docx	LEGALEASE-00137987- LEGALEASE-00137988
United States v. Kearney, 498 F.2d 61	67+15	Under District of Columbia statute defining burglary as entry without breaking with intent to commit any criminal offense, consent to enter is not defense where one is shown to have entered with the requisite criminal intent. D.C.C.E. SS 22-1801(a), 22-3102.	Is unlawful entry a lesser included offense of burglary?	Burglary - Memo 106 - JS.docx	ROSS-003290171-ROSS- 003290172
State v. Briggs, 161 Conn. 283	67+8	Word "daytime" as used in statutory crime of breaking and entering a dwelling in the daytime means that time of day when there is sufficient daylight so as to be able to discern the features of another by natural sunlight. C.G.S.A. S 53-73.	What is daytime in burglary?	Burglary - Memo 159 - JS.docx	ROSS-003331022-ROSS- 003331024
Stuart v. McVey, 59 Idaho 740	48A+246(8)	An instruction to find for plaintiffs in action for death of driver of automobile colliding with defendants' truck, if truck was being driven on left side of highway, was erroneous as in effect instructing jury that driving on left side of highway is negligence per se.	Can driving on the left side of a highway be considered as negligence?	018858.docx	LEGALEASE-00137755- LEGALEASE-00137756
City of Silverton v. Brown, 63 Or. 418	200+14	The general rule is that the width of a highway established entirely by user is limited to the ground actually used.	What would be construed as the width of highway?	Highways -Memo 80- IS.docx	ROSS-003289356-ROSS- 003289357
Darnall v. Hughes, 17 So. 3d 1201	200+79.6	County maintenance is not essential to the status of a public road, and the placement of a fence across a road does not per se constitute an abandonment of the road; evidence regarding these factors is pertinent, however, to the question of whether a public road has been abandoned.	Does placement of a fence across a road constitute abandonment of the road?	019233.docx	LEGALEASE-00137931- LEGALEASE-00137932

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Burrows v. Cty. Court of Carter Cty., 308 S.W.2d 299	200+77(9)	On appeal from judgment of circuit court affirming order of county court vacating segment of county road, although Court of Appeals cannot substitute its judgment on evidence for that of county court, Court of Appeals is authorized to determine whether county court reasonably could have made its findings and reached its result upon consideration of all of the evidence before it, and to set aside order of county court if it is found to be clearly contrary to overwhelming weight of evidence. Sections 228.120, subd. 2, 228.130, 536.140, subd. 2 RSMo 1949, V.A.M.S.; V.A.M.S.Const. art. 5, S 22.	Does the failure to obtain report from county highway engineer render an order vacating a road void?	019323.docx	LEGALEASE-00137745- LEGALEASE-00137746
Lambert v. Bunge Corp., 169 So. 2d 207	307A+716	Illness of principal counsel in trial of case is good ground for continuance. LSA-C.C.P. art. 1601.	"Where a defendant swears that his principal counsel is unable to attend, as he is informed and believes, from severe illness, and that he cannot safely go to trial without him, is he entitled to a continuance?"	030130.docx	LEGALEASE-00137458- LEGALEASE-00137459
Bullistron v. Augustana Hosp., 52 Ill. App. 3d 66	307A+723.1	Failure to comply with relevant statutory provisions is, of itself, grounds for denial of a motion for continuance. Supreme Court Rules, rule 231, S.H.A. ch. 110A, S 231.	"Is a denial of motion for continuance not error, where the motion does not substantially comply with an applicable statute?"	030321.docx	LEGALEASE-00137420- LEGALEASE-00137421
Georgia Cas. Co. v. Campbell, 266 S.W. 854	307A+720	Filing of a trial amendment does not necessarily entitle plaintiff to continuance.	Will the filing of a trial amendment entitle a plaintiff to a continuance?	030823.docx	LEGALEASE-00137075- LEGALEASE-00137076
Horlick's Malted Milk Co. v. A. Spiegel Co., 155 Wis. 201	307A+91	It is the purpose of St.1911, S 4096, subds. 3, 5 (W.S.A. 326.10, 326.12), to afford a full discovery of all matters relevant to the controversy.	Is it the purpose of statutes to afford a full discovery of all matters relevant to the controversy?	Pretrial Procedure - Memo # 4739 - C - AP.docx	ROSS-003318103-ROSS- 003318104
Brinker v. Brinker, 7 Pa. 53	106+198	The orphans' court, not being one of general equity jurisdiction, cannot entertain a bill of discovery.	Is a bill of discovery subject to equity jurisdiction only and cannot come up for a correction of error at law?	031486.docx	LEGALEASE-00137118- LEGALEASE-00137119
Roberts v. Schlather & Steinmeyer, 8 S.W.2d 296	307A+725	Continuance because of incomplete service on defendant entered on docket could be set aside only on motion and notice, and default judgment without notice could not stand.	Should a continuance be set aside only on a proper motion of which the opposite party should be advised?	031592.docx	LEGALEASE-00138045- LEGALEASE-00138046
Erlandson v. Erskine, 76 Mont. 537	8.30E+266	Renewal note is treated as new transaction on new promise, if parties' intention was to extinguish original note.	When does the renewal of the note extinguish the original debt?	Bills and Notes - Memo 225 - IS.docx	ROSS-003290000-ROSS- 003290001
First Nat. Bank v. Rhode Island Ins. Co., 184 Ark. 812	8.30E+76	Bill of exchange drawn by drawer of himself is in legal effect promissory note, and cannot be countermanded (Crawford & Moses' Dig. S 7896).	Can a bill of exchange drawn by the maker upon himself is a promissory note?	010135.docx	LEGALEASE-00138804- LEGALEASE-00138805
Hebel v. Ebersole, 543 F.2d 14	8.30E+76	Where auction company, on being informed that consignor had not paid for cattle sold at consignment sale, stopped payment on check, which it had issued to consignor and which the latter had endorsed to a holder in due course, the holder had an action under Illinois law against the auction company on the check as if the check were a promissory note. S.H.A. ch. 26, SS 3-413, 4-403.	Does the holder of the check have an action against drawer similar to that of a promissory note?	010172.docx	LEGALEASE-00138252- LEGALEASE-00138253
In re Kang Jin Hwang, 396 B.R. 757	83E+481	Under California law, fundamental feature of negotiable instruments is that they are transferred by delivery of possession, not by contract or assignment. West's Ann.Cal.Com. Code SS 3201, 3203.	What is a fundamental feature of negotiable instruments?	Bills and Notes -Memo 388-VP.docx	ROSS-003288789-ROSS- 003288790
Roberts v. Mississippi State Highway Comm'n, 309 So. 2d 156	200+182	Regulation of vehicle and load weights is long-recognized and long-used method of maintaining and preserving state's highways. Code 1972, S 65-1-47.	What should be done in preserving or protecting highways?	018954.docx	LEGALEASE-00138701- LEGALEASE-00138702

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Rospert v. Old Fort Mills, 81 Ohio App. 241	302+9	The doctrine of res ipsa loquitur being a rule of evidence, it is not necessary to be pleaded.	Should the doctrine of res ipsa loquitur be pleaded?	023407.docx	LEGALEASE-00138750-LEGALEASE-00138751
St. Louis, B. & M. Ry. Co. v. Jenkins, 163 S.W. 621	307A+74	The absence of the seal on the envelope in which depositions were returned is not a ground for suppressing the depositions; the seal being imprinted where the officers certified to the deposition proper.	Is the absence of the seal on the envelope in which depositions were returned not a ground for suppressing the depositions?	031819.docx	LEGALEASE-00138548-LEGALEASE-00138549
Heyl v. Bradford, 217 Ill. App. 477	307A+81	Where deposition was taken by officer outside the state and dedimus on which it was taken did not name any particular person as commissioner, want of proper certificate showing official character of person taking deposition, as required by statute, could be taken advantage of on trial by objecting to reading of deposition in evidence. Smith-Hurd Stats. c. 51, S 30.	Shall a deposition taken before a notary out of the state be accompanied by a certificate of the official character of the notary?	Pretrial Procedure - Memo # 4966 - C - DHA.docx	ROSS-003291252-ROSS-003291253
Dunham v. Halloway, 2 Okla. 78	307A+74	Where a certificate fails to show that depositions were taken at the place named in the notice, and where it further appears that the adverse party was not present when such depositions were taken, the depositions should be suppressed.	Should depositions be taken at a place designated in notice?	Pretrial Procedure - Memo # 5122 - C - CK.docx	ROSS-003318184-ROSS-003318185
N. Am. Acc. Ins. Co. v. Williamson, 118 Ill. App. 670	307A+74	A certificate of official character of notary public who took deposition could properly be attached thereto before deposition was read in evidence. Smith-Hurd Stats. c. 51, S 30.	"Is the official certificate of the commissioner before whom a deposition was taken, purporting to be under his hand and seal, presumptive evidence of his official character?"	032387.docx	LEGALEASE-00138888-LEGALEASE-00138889
Danese v. Morrison-Knudsen/Slattery, 784 F. Supp. 228	413+2084	Under Pennsylvania law, remedies available under Workmen's Compensation Act are exclusive remedies available to workers who seek to recover from their employers for work-related injuries. 77 P.S. S 481(a).	What are the burdens of proof exchanged for or supplanted by the Workers Compensation Act?	048610.docx	LEGALEASE-00138254-LEGALEASE-00138255
State v. Allen, 125 Ariz. 158	67+3	A lawful entry, even one accompanied by nefarious intent, is not by itself a burglary; unlawful presence and criminal intent must coincide for a burglary to occur. West's RCWA 9A.52.010, 9A.52.030(1).	Can criminal intent with lawful entry constitute burglary?	012814.docx	LEGALEASE-00139105-LEGALEASE-00139106
Amoco Prod. Co. v. S. Ute Indian Tribe, 526 U.S. 865	260+2	Surface patentees, not Indian tribe holding equitable title to reserved coal in lands patented under Coal Lands Acts of 1909 and 1910, owned coalbed methane (CBM) gas contained in such coal, inasmuch as common conception of coal in 1909 and 1910 did not include CBM gas, and, even if right to mine coal implied right to release gas incident to coal mining, such right did not imply ownership of gas in first instance. 30 U.S.C.A. SS 81, 83-85.	"At common-law, does the right of the owner of one mineral estate include the use, and even damage, of a neighboring estate as necessary and reasonable to the extraction of his own minerals?"	021153.docx	LEGALEASE-00139341-LEGALEASE-00139343
United States v. Kahn, 472 F.2d 272	63+3	Under Pennsylvania law, extortion is not complete defense to bribery charge, but may be relevant on issues of intent and wilfulness.	Is extortion a complete defense to bribery charge?	Bribery - Memo #688 - C-JL.docx	LEGALEASE-00029251-LEGALEASE-00029252

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Duncan Land & Expl. v. Littlepage, 984 S.W.2d 318	260+78.1(8)	Two-prong test is applied to determine whether oil or gas well is producing in paying, or commercial, quantities: first, court asks whether production is sufficient to pay lessee profit, even small one, over operating and marketing expenses, although cost of drilling well may never be repaid; second, if first prong is answered in affirmative, court asks whether or not, under all relevant circumstances, reasonably prudent operator would continue to operate well in manner in which it is being operated for purpose of making profit and not merely for speculation.	Does the Railroad Commission have the power to determine where or whether wells may be drilled?	021654.docx	LEGALEASE-00139371- LEGALEASE-00139372
California Steel Bldgs. v. Transp. Indem. Co., 242 Cal. App. 2d 749	307A+749.1	In absence of request for modification, party is bound by pretrial order. Cal.Rules of Court, rules 215(b), 216, 218.	"In absence of a request for modification, is a party bound by a pretrial order?"	Pretrial Procedure - Memo # 2473 - C - SJ.docx	ROSS-003289302-ROSS-003289303
Morrison v. White, 16 La. Ann. 100	307A+74	It is not necessary that the return should show by whom the answers of the witnesses were reduced to writing.	Is it not necessary that the return should show by whom the answers of the witnesses were reduced to writing?	032279.docx	LEGALEASE-00139453- LEGALEASE-00139454
Egri v. Foisie, 83 Conn. App. 243	302+354	A motion to dismiss on jurisdictional grounds essentially asserts that, as a matter of law and fact, a plaintiff cannot state a cause of action that is properly before the court, while by contrast, a motion to strike attacks the sufficiency of the pleadings. Practice Book 1998, SS 10-31, 10-39.	Is there a significant difference between asserting that a plaintiff cannot state a cause of action and asserting that a plaintiff has not stated a cause of action?	032722.docx	LEGALEASE-00139597- LEGALEASE-00139598
Ryan v. May, 14 Ill. 49	83E+481	The legal title to a note cannot be transferred by assignment by a separate instrument.	Can the legal title to a note be transferred by an assignment through a separate instrument?	009522.docx	LEGALEASE-00140619- LEGALEASE-00140620
First Nat. Bank of Fredonia v. Meadows, 460 S.W.2d 604	83E+736(1)	Kansas Negotiable Instruments Act has no application to a nonnegotiable instrument, but it does not follow that an action may not be declared on as if negotiable. K.S.A. 84-3-407, 84-4-401, 84-8-206.	Does the Uniform Negotiable Instruments Act apply to nonnegotiable instruments?	009591.docx	LEGALEASE-00140570- LEGALEASE-00140571
Ingram v. Mandler, 56 F.2d 994	83E+481	Note may be transferred by assignment without actual delivery.	Can a note be transferred by assignment without actual delivery?	010425.docx	LEGALEASE-00140317- LEGALEASE-00140318
United States v. Ganim, 510 F.3d 134	63+1(1)	Like extortion, the crime of bribery requires a quid pro quo.	Does extortion require a quid pro quo?	Bribery - Memo #602 - C - LB.docx	ROSS-003315608-ROSS-003315609
Clark v. State of Ill., 30 Ill. Ct. Cl. 32	200+188	The State of Illinois is not guilty of negligence unless it has reasonable notice of a dangerous condition and fails to warn the motoring public.	Is the State negligent if it does not notify or warn the public if a highway is dangerously defective?	018967.docx	LEGALEASE-00139767- LEGALEASE-00139768
State v. Commissioners of Haywood Cty., 122 N.C. 812	200+121	The legislature has power to compel a county to levy a tax for road purposes, and may direct the manner in which the roads shall be worked. Acts 1897, c. 249.	Does the legislature have power to direct the manner in which the roads shall be worked in a county?	019031.docx	LEGALEASE-00140231- LEGALEASE-00140232
Grunwaldt v. City of Milwaukee, 35 Wis. 2d 530	228+181(15.1)	Existence of material issue of fact as to whether particular parcel of land was discontinued for highway use and reverted to abutting owner would preclude granting of summary judgment in abutting owner's action to quiet title to property, unless trial court could dispose of case on other legal grounds. W.S.A. 80.01(3).	"Does the conveyance of property abutting on a street or highway, transfer legal title to the land to the center of the adjacent street or highway?"	Highways -Memo 185 - DB.docx	ROSS-003287461-ROSS-003287462
Fischer v. Fischer, 197 S.W.3d 98	289+924	Right to dissolve is inseparably incident to every partnership, and there can be no indissoluble partnership.	Is the right to dissolve a partnership an inseparable incident to every partnership?	022286.docx	LEGALEASE-00140145- LEGALEASE-00140146
Dodge v. Bd. of Educ. of City of Chicago, 364 Ill. 547	296+1	State may control the giving or taking away of pensions.	Can the State control the giving or taking away of pensions?	022891.docx	LEGALEASE-00140494- LEGALEASE-00140495

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In re Einhorn's Estate, 138 N.Y.S.2d 840	307A+91	An examination of party before trial must be legitimately sought, and the party seeking it must act in good faith. Civil Practice Act, SS 288 et seq., 309.	"To warrant order for examination of the adverse party before trial, must it appear that the application is made in good faith?"	031336.docx	LEGALEASE-00140641- LEGALEASE-00140642
Gulf City Ins. Co. v. Stephens, 51 Ala. 121	307A+74	Several depositions may be included in one certificate, if it is sufficiently formal. It is not necessary that a separate certificate should be appended to each deposition.	Can several depositions be included in one certificate?	032334.docx	LEGALEASE-00139903- LEGALEASE-00139904
Ford v. United Bhd. of Carpenters & Joiners of Am., 50 Wash. 2d 832	307A+74	Where commissioner's certificate was not attached to deposition when it was submitted and was submitted under separate cover but contents of deposition were thereafter duly certified and deposition was returned to trial court with certificate attached, error, if any, in original manner of certification was thereby cured.	Is no formal certificate necessary to be attached to exhibits in order to make them parts of the deposition in which reference is made to them?	032483.docx	LEGALEASE-00140568- LEGALEASE-00140569
Trantham v. State Disbursement Unit, 313 Mich. App. 157	268+956(2)	Fees charged by a government entity must be reasonably proportionate to the direct and indirect costs of providing the services for which the fee is charged; a fee is presumed reasonable unless it is facially or evidently so wholly out of proportion to the expense involved that it must be held to be a mere guise or subterfuge to obtain the increased revenue.	Is a tax designed to raise revenue?	044865.docx	LEGALEASE-00140237- LEGALEASE-00140238
Catania v. Vanacore, 136 Conn. 244	386+11	The act of persons other than owners of easement, in going unlawfully upon right of way, would not constitute a trespass against owners of the easement.	Can trespass be committed against the owners of a mere easement of passage?	047422.docx	LEGALEASE-00140596- LEGALEASE-00140597
W. Virginia Div. of Izaak Walton League of Am. v. Butz, 522 F.2d 945	411+8	As used in Organic Act provision that timber in national forest, before being sold, shall be marked and designated, "marked" means selection and indication by a blaze, paint or marking hammer on the stem of trees to be felled or retained, and "designate" means to indicate, and as the words are not synonymous, forest service must not only designate that area from which timber is to be sold, but mark each individual tree authorized to be cut. 16 U.S.C.A. S 476.	What is the meaning of marking or marked in the context of forestry?	047596.docx	LEGALEASE-00140272- LEGALEASE-00140273
Mosley v. United States, 456 F. Supp. 671	260+92.8	Tennessee statute applying to mines other than commercial coal mines and providing regulations for shop and other equipment imposes duties both upon employers and upon employees but no duty upon mine inspector, and certainly not upon private person, and creates no right of action for money damages against any person alleged to have failed to have guarded adequately any article of equipment listed therein. T.C.A. SS 58-1102, 58-1103, 58-1107(a).	Is the failure to perform a statute imposed positive duty to inspect a mine considered as actionable negligence for which liability would be incurred?	021296.docx	LEGALEASE-00141433- LEGALEASE-00141434
Long v. U.S., 96 F.Supp. 445	289+639	Under Oklahoma law, in operation of a partnership affair, each member acts as principal for himself, and as agent for other members in general scope of enterprise. 54 Okl.St.Ann. S 1.	"Does a partner, in a partnership, act as a principal to himself?"	Partnership - Memo 397 - TB.docx	ROSS-003302654-ROSS- 003302655
Roark v. Macoupin Creek Drainage Dist., 316 Ill. App. 3d 835	302+11	A plaintiff is not required to plead evidence in his complaint but is only required to allege ultimate facts.	Is a plaintiff required to plead evidence in his complaint?	023466.docx	LEGALEASE-00141553- LEGALEASE-00141554

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Estate of Johnson by Johnson v. Vill. of Libertyville, 146 Ill. App. 3d 834	302+11	Pleader is not required to set out his evidence; only ultimate facts to be proved should be alleged, and not evidentiary facts tending to prove ultimate facts.	Is a pleader required to set out his evidence?	023470.docx	LEGALEASE-00141608- LEGALEASE-00141609
Rusch v. Cox, 130 Conn. 26	307A+713	Motions for continuance are within the discretion of the trial court and their denial is not error unless that discretion is abused.	Will a refusal of continuance on ground of absence of witnesses be an abuse of discretion?	Pretrial Procedure - Memo # 5207 - C - AC.docx	ROSS-003302200-ROSS-003302201
M.C. Lee & Co. v. Stowe & Wilmerding, 57 Tex. 444	307A+74	So much of a deposition as is not pertinent to the interrogatories propounded, should, when properly objected to, be stricken out.	"When so much of a deposition as is not pertinent to the interrogatories propounded, should it, when properly objected to, be stricken out?"	032584.docx	LEGALEASE-00141677- LEGALEASE-00141678
Cooper v. Stinson, 5 Minn. 201	307A+74	Under a commission to take the depositions of three witnesses out of the state, the commissioner returned upon the first deposition that the witness was duly sworn by him. On the other two he returned that the witnesses were "duly sworn as before mentioned." Held, that this was a sufficient compliance with rule 13 of the district court, rule 13 requiring the commissioner to certify at the bottom of each deposition that it was sworn to before him, and that the deposition was admissible.	Is it necessary that a separate certificate should be appended to each deposition?	032622.docx	LEGALEASE-00141222- LEGALEASE-00141223
Draper & Kramer v. King, 2014 IL App (1st) 132073	307A+531	Under the law, there is a clear preference for disposing of issues based on the merits.	Is there a clear preference for disposing of issues based on the merits?	033280.docx	LEGALEASE-00140720- LEGALEASE-00140721
Moore v. Mitchell, 30 F.2d 600	371+2001	Enforcement of revenue laws rests on force and authority, not on consent.	Do enforcement of revenue laws rest on force and authority?	045154.docx	LEGALEASE-00140897- LEGALEASE-00140898
Havens v. Attorney Gen., 91 N.H. 115	371+2001	A "tax" in itself is an economic charge which must be paid in some way by the person affected, and it must either come from a surplus of the taxpayer, or the burden must be passed on to those with whom taxpayer has economic relations.	Should a tax be paid in some way by the person affected?	045183.docx	LEGALEASE-00141113- LEGALEASE-00141114
Indiana Dep't of State Revenue v. Bendix Aviation Corp., 237 Ind. 98	371+2005	The states retain the power to tax except as limited or restricted by United States Constitution.	What are the restrictions for the states to retain their power to tax?	045467.docx	LEGALEASE-00141575- LEGALEASE-00141576
Vadnais v. Fed. Nat. Mortg., 754 F.3d 524	83+71.1	Statutes exempting Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), and Federal Housing Finance Agency (FHFA) from all state taxation were a valid exercise of Congress's power under the Commerce Clause, where Congress had a rational basis for finding that state taxation of federal agencies interfered with interstate commerce. U.S.C.A. Const. Art. 1, S 8, cl. 3; Federal National Mortgage Association Charter Act, S 309(c)(2), 12 U.S.C.A. S 1723a(c)(2); Emergency Home Finance Act of 1970, S 303(e), 12 U.S.C.A. S 1452(e); Federal Housing Enterprises Financial Safety and Soundness Act of 1992, S 1367, 12 U.S.C.A. S 4617(j)(2).	Is there any provision of the Constitution that insulates state taxes from federal powers granted by the Constitution?	045500.docx	LEGALEASE-00141766- LEGALEASE-00141767

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Am. Soda, LLP v. U.S. Filter Wastewater Grp., 428 F.3d 921	95+206	Contractual forum selection clause designating the state courts or arbitration as "the exclusive forum for the resolution of any disputes related to or arising out of" the contract was mandatory rather than permissive, although the clause did not specify a county or tribunal for venue.	When will a forum selection clause be enforced as mandatory?	007621.docx	LEGALEASE-00143275- LEGALEASE-00143277
Deputy v. Lehman Bros., 374 F. Supp. 2d 695	25T+154	A court may dismiss a case if all of the issues raised before it are arbitrable.	Can a court dismiss a case if all the issues raised before it are arbitrable?	Alternative Dispute Resolution - Memo 662 - RK.docx	ROSS-003287036-ROSS-003287037
United States v. Barash, 412 F.2d 26	63+1(1)	Although criminal intent is a necessary element for conviction for payment of gratuities to internal revenue agents in return for favorable adjustments in connection with audits of personal income tax returns, no specific intent is required, and offense was established if the payments were made because of economic duress, a desire to create a better working atmosphere, or appreciation for a speedy and favorable audit. 26 U.S.C.A. (I.R.C.1954) S 7214(a) (2); 18 U.S.C.A. S 2(b).	Does a gratuity count require specific intent?	011485.docx	LEGALEASE-00142205- LEGALEASE-00142206
Abbott v. BP Expl. & Prod. Inc., 781 F. Supp. 2d 453	149E+700	Former project control supervisor for an oil and gas drilling site and a consumer advocacy organization supporting environmental protection stated a claim for injunctive relief against an oil company under the Outer Continental Shelf Lands Act (OCSLA) regarding oil production in the Gulf of Mexico; plaintiffs alleged with specificity the factual basis underlying the company's purported regulatory violations concerning its subsea engineering documentation database, the longer a production site remained operative without the required engineering documents, the greater the risk that an accident could occur, and destruction of the Gulf by a spill or other incident would affect the public interest in a dramatically negative manner. Outer Continental Shelf Lands Act, S 23(a)(4), 43 U.S.C.A. S 1349(a)(4).	Does a lease issued under the OCSLA (Outer Continental Shelf Act) convey title in the land or an unencumbered estate in oil and gas?	021160.docx	LEGALEASE-00142774- LEGALEASE-00142775
In re Century Offshore Mgmt. Corp., 185 B.R. 734	260+114.5	Under new 1995 Louisiana Oil, Gas, and Water Wells Lien Act, which grants mechanics' and materialman's liens or privileges to oil and gas contractors who provide services to oil and gas facilities, the privilege or lien clearly secures the entire cost of labor or services, not just any unpaid amounts. LSA-R.S. 9:4862, subd. A.	"Is the purpose of the oil well lien act to protect those who contribute labour, services, and equipment to the drilling of wells from the default of those who engage them?"	Mines and Minerals - Memo #157 - C - CSS.docx	ROSS-003287508-ROSS-003287509
VLIW Tech. v. Hewlett-Packard Co., 840 A.2d 606	302+11	Under Delaware's judicial system of notice pleading, a plaintiff need not plead evidence; rather, the plaintiff need only allege facts that, if true, state a claim upon which relief can be granted.	"In a system of notice pleading, must a plaintiff plead evidence?"	023493.docx	LEGALEASE-00142983- LEGALEASE-00142984
Strutz v. McNagny, 558 N.E.2d 1103	307A+716	Trial court did not abuse its discretion in denying third motion by plaintiff attorney, who was acting as his own counsel, for continuance in order to allow his cocounsel to review the file; since plaintiff had filed complaint and had participated in the case up to the time of hearing, plaintiff was aware of issues and arguments to be addressed.	Did the court abuse its discretion in denying debtor's third motion for continuance?	032502.docx	LEGALEASE-00142314- LEGALEASE-00142315
Gray v. Phillips, 54 Tex. Civ. App. 148	307A+74	A deposition may be withdrawn and irregularities corrected by the officer taking it under order of the court, and in its presence.	Can a court permit withdrawal of depositions to correct irregularities?	032519.docx	LEGALEASE-00142114- LEGALEASE-00142115

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Terry v. Terry, 160 Ind. App. 653	307A+715	Under proper circumstances, illness of a party litigant is sufficient grounds for a continuance.	"Is illness of a party, sufficient ground for a continuance?"	033923.docx	LEGALEASE-00142368-LEGALEASE-00142370
Mohr v. Mohr, 859 N.W.2d 377	307A+560	Statute providing for dismissal of unserved petitions is self-executing and mandatory. Neb. Rev. Stat. S 25-217.	Is the statute providing for dismissal of unserved petitions self-executing and mandatory?	Pretrial Procedure - Memo # 6416 - C - SK.docx	ROSS-003301792-ROSS-003301793
Heise v. Olympus Optical Co., 111 F.R.D. 1	170A+1751	Defense of insufficiency of process challenges content of summons, and defense of insufficiency of service of process challenges manner or method of service. Fed.Rules Civ.Proc.Rule 12(b), 28 U.S.C.A.	Does the defense of insufficiency of process differ from insufficiency of the service of process?	034355.docx	LEGALEASE-00143218-LEGALEASE-00143219
Deutsche Bank Nat'l Tr. Co. v. Waldorf, 92 So. 3d 857	266+1798	Trial court's failure to consider the Kozel factors for determining whether dismissal with prejudice is an appropriate sanction for attorney misconduct before dismissing bank's foreclosure complaint with prejudice for failure to provide the court with a summary final judgment package before the hearing on bank's summary judgment motion required reversal and remand for consideration of the factors in determining what sanction other than dismissal was appropriate.	Are sanctions for attorney misconduct short of dismissing a case with prejudice appropriate when the errors are made by the attorney?	034414.docx	LEGALEASE-00143554-LEGALEASE-00143555
New York Carpet World v. Dep't of Employment Sec., 283 Ill. App. 3d 497	307A+560	Distinction exists between "misnomer," that is, serving misnamed party, and serving the wrong person, for purposes of determining whether complaint should be dismissed. S.H.A. 735 ILCS 5/2-401(b).	Does a distinction exist between misnomer and serving the wrong person?	Pretrial Procedure - Memo # 6733 - C - PC.docx	ROSS-003289344
Barcon v. Wyoming State Bd. of Equalization, 845 P.2d 373	371+2013	Power to tax is legislative power which includes power to say what shall be taxed, who pays it and what tax shall be.	"Does the power to tax include power to say who shall be taxed, who shall pay it, and what the tax shall be?"	045331.docx	LEGALEASE-00142423-LEGALEASE-00142424
Newman v. City of Indianola, 232 N.W.2d 568	371+2060	There is a distinction between a "tax" and an "assessment"; a "tax" is a charge to pay the cost of government without regard to special benefits conferred.	"Is there a distinction between a ""tax"" and an ""assessment""?"	Taxation - Memo # 669 - C - CK.docx	ROSS-003317234-ROSS-003317235
City of Huntington v. Bacon, 196 W. Va. 457	371+2061	Essential characteristic of ad valorem tax is that tax is levied according to value of property.	"Is an ""ad valorem tax"" one imposed on property according to its value?"	045716.docx	LEGALEASE-00142213-LEGALEASE-00142214
HFC Investments v. Valley View State Bank, 361 S.W.3d 450	401+5.3(2.1)	Allegations in vendor's petition that purchaser fraudulently induced vendor to enter into purchase agreement and execute deeds transferring Kansas property to purchaser, and that the agreement and deeds executed as a part thereof were not binding on vendor and were null and void or void and voidable, affected the title to real estate, and thus, were subject to dismissal pursuant to statutory provision that required actions affecting title to real estate be brought in the county in which the property is located, even if the petition asserted additional counts seeking money damages arising out of the same set of operative facts. V.A.M.S. S 508.030.	Must the title to land be the subject of controversy for the suit to be brought in the county where the land is situated?	047536.docx	LEGALEASE-00143422-LEGALEASE-00143423
Rector v. Dep't of Labor & Indus. of State of Wash., 61 Wash. App. 385	413+2	Industrial insurance claim is governed by explicit statutory directives and not by common law. West's RCWA 51.04.010 et seq.	What are industrial insurance claimed governed by?	Workers Compensation - Memo #382 ANC.docx	ROSS-003303389-ROSS-003303390

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Travelers Indem. Co. v. Reker, 100 S.W.3d 756	413+2084	Workers' compensation is a creature of statute, and the remedies and procedures described therein are exclusive. KRS 342.690(1).	Are the remedies and procedures in workers compensation exclusive?	048157.docx	LEGALEASE-00142146-LEGALEASE-00142147
Sexton v. Jenkins & Assocs., 41 S.W.3d 1	413+2	The Workers' Compensation Law supplants the common law in determining remedies for on-the-job injuries. V.A.M.S. S 287.120.	What does workers compensation law supplant?	048178.docx	LEGALEASE-00142201-LEGALEASE-00142202
Weaver v. Florida Power & Light Co., 172 F.3d 771	25T+182(1)	Generally, arbitration should not be compelled when party who seeks to compel arbitration has waived that right.	Can arbitration be compelled by a court when the party who seeks to compel arbitration has waived that right?	007735.docx	LEGALEASE-00144959-LEGALEASE-00144960
United States v. White, 836 F.3d 437	350H+1285	West Virginia burglary statute, which included self-propelled motor homes in its definition of "dwelling," swept more broadly than generic burglary, and thus defendant's prior West Virginia burglary convictions did not constitute "burglaries" that could serve as predicate violent felony offenses under Armed Career Criminal Act (ACCA). 18 U.S.C.A. S 924(e)(2)(B)(ii); W. Va. Code Ann. S 61-3-11(a).	Is burglary an enumerated offense?	Burglary - Memo 207 - JS.docx	ROSS-003328726-ROSS-003328729
State v. Hussain, 189 Ariz. 336	67+4	Motel room qualified as a "residential structure" within meaning of burglary statute. A.R.S. S 13-1501, subd. 7.	Does a motel room qualify as a building under a burglary statute?	012912.docx	LEGALEASE-00144879-LEGALEASE-00144882
United States v. Marrero, 677 F.3d 155	350H+1263	Offenses listed in Application Note 1 of career offender Sentencing Guideline, including murder, manslaughter, kidnapping, aggravated assault, forcible sex offenses, robbery, arson, extortion, extortionate extension of credit, and burglary of a dwelling, are "enumerated" as crimes of violence for purposes of determining the Guideline's applicability. U.S.S.G. S 4B1.2(a), 18 U.S.C.A.	Is burglary of a hotel room a crime of violence?	Burglary - Memo 229 - SB.docx	ROSS-003302219-ROSS-003302222
Cont'l Sales Corp. v. Stookesberry, 170 Colo. 16	302+38.5	Primary function of complaint is to give notice, and theories of action are no longer significant.	Is giving notice the primary purpose of a complaint?	Pleading - Memo 427 - RMM.docx	ROSS-003291184-ROSS-003291185
Fennema v. Vander Aa, 236 N.E.2d 409	307A+746	A pretrial conference is primarily a procedure to simplify and speed up the trial, which encourages parties to agree to stipulations and to admission of documents and frequently leads to a settlement through the aid of pretrial judge, and a conference should not be used for purpose of summarily dismissing a cause when plaintiff fails to appear or, on the other hand, for purpose of striking defendant's answer and permitting plaintiff to prove up his claim when defendant fails to appear.	Is a pretrial conference primarily a procedure to simplify and speed up the trial?	Pretrial Procedure - Memo # 6707 - C - NE.docx	ROSS-003288443
Saviors v. Smith, 101 Ohio St. 132	371+2005	The power to tax is an attribute of sovereignty, and in Ohio is included in the general legislative power conferred by Const. art. 2, S 1, upon the General Assembly without limitation.	Is a state's power to tax included in the general legislative power conferred by constitution?	045790.docx	LEGALEASE-00144588-LEGALEASE-00144589
7 Utes Corp. v. Dist. Court In & For Eighth Judicial Dist. (Jackson Cty.), 702 P.2d 262	401+2	In determining the proper venue for an action, the substance rather than the form of the action controls.	Is it the substance of the action or the form of the action which controls the venue of the case?	047508.docx	LEGALEASE-00144682-LEGALEASE-00144683
U.S. v. Thompson, 118 F. Supp. 2d 723	34+56	Each war risk insurance case must be governed by its own facts.	Should every war risk insurance case be governed by its own facts?	008703.docx	LEGALEASE-00146557-LEGALEASE-00146558
United States v. Sorrow, 732 F.2d 176	164T+21	Hobbs Act only requires minimal interference with interstate commerce. 18 U.S.C.A. S 1951.	What degree of interference with interstate commerce does the Hobbs Act require?	012262.docx	LEGALEASE-00145115-LEGALEASE-00145116
People v. Henderson, 138 Cal. App. 2d 505	67+29	Burglarios intent may be inferred from the forcible and unlawful entry alone. West's Ann.Pen.Code, S 459.	Can the intent in the crime of burglary be inferred from unlawful and forcible entry?	Burglary - Memo 212 - JS.docx	ROSS-003315737-ROSS-003315741

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Langford v. Bivins, 225 S.W. 867	260+74	Time is of the essence of contracts for the sale of mineral leases and lands.	Is time of the essence of contracts for the sale of mineral leases?	021438.docx	LEGALEASE-00146001-LEGALEASE-00146002
Freeman v. United States Dep't of the Interior, 37 F. Supp. 3d 313	148+83	Decision by Interior Board of Land Appeals (IBLA) that Department of Interior (DOI) could initiate contest and administrative law judge (ALJ) could determine validity of unpatented mining claims as of date of alleged takings did not undermine purposes of Mining Law; use of those historical dates was necessary to answer key legal question triggering initiation of contest hearing, i.e., validity of mining claims at dates when claimant alleged government taking, and Mining Law authorized Secretary of the Interior to serve as guardian of public's rights as part of its management of public lands. 30 U.S.C.A. S 22 et seq.; 43 U.S.C.A. S 1457	Are lands withdrawn from mineral entry considered to be within the public domain and subject to the statutory rights enumerated in the General Mining Law?	021470.docx	LEGALEASE-00146172-LEGALEASE-00146173
Arnold v. Wainwright, 6 Minn. 358	108H+1175	When partnership real estate is in the name of one or more parties, a trust arises in favor of the firm by operation of law, which is not affected by the statute of frauds and uses, and which will follow the lands after conveyance by the holder of its legal title, except when the conveyance is to a bona fide grantee or mortgagee without notice. An assignee for the benefit of creditors is not such a bona fide purchaser.	Can a partner convey away the real estate of the partnership firm?	022488.docx	LEGALEASE-00146398-LEGALEASE-00146399
Rucker v. Merck, 172 Ga. 793	371+3456	Congress may provide that federal compensation for military service shall be exempt from all taxation (38 U.S.C.A. SS 753, 754; U.S.C.A.Const. art. 1, S 8, cl. 11).	Are pensions granted for military service?	Pension - Memo 44 - TB.docx	ROSS-003287642
Rhodes v. United States, 79 F. 740	296+2	A disease was contracted within "the line of duty," within Rev.St. SS 4693, 4694, providing for pensions for soldiers "disabled by reason of any wound or injury received, or disease contracted, while in the service of the United States and in the line of duty," only if the service was the cause of the disease.	Can an injury caused to a victim in the line of duty entitle him to pension?	022825.docx	LEGALEASE-00145879-LEGALEASE-00145880
Bader v. Cox, 701 S.W.2d 677	302+1	Function of a pleading is to define issues at trial, not to state evidence.	Is defining issues or stating evidence the function of pleading?	Pleading - Memo 442 - RMM.docx	ROSS-003288570-ROSS-003288571
Stop & Shop Supermarket Co. v. Cty. of Bergen, 162 A.3d 291	13+6	Mootness is threshold justiciability determination rooted in notion that judicial power is to be exercised only when party is immediately threatened with harm.	Is excluding the testimony of a witness a harsh remedy which should be invoked sparingly?	034136.docx	LEGALEASE-00145446-LEGALEASE-00145447
Mistich v. Com., Pa. Bd. of Prob. & Parole, 863 A.2d 116	307A+552	Generally, a case will be dismissed as moot if there exists no actual case or controversy.	Can a case be dismissed as moot if there exists no actual case or controversy?	Pretrial Procedure - Memo # 7234 - C - SB.docx	ROSS-003289996-ROSS-003289997
In re Brooks, 143 N.C. App. 601	307A+552	If, during the course of litigation, an action becomes moot, it should usually be dismissed.	Should an action be dismissed if during the course of litigation it becomes moot?	035367.docx	LEGALEASE-00146046-LEGALEASE-00146047
Braden v. S. Main Bank, 837 S.W.2d 733	30+3324	Trial court may impose sanctions on any party that abuses discovery process; sanctions imposed are within that court's discretion and will be set aside only if the court clearly abused its discretion. Vernon's Ann.Texas Rules Civ.Proc., Rule 215.	Does a trial court abuse its discretion if sanctions it imposes are not just?	035500.docx	LEGALEASE-00146651-LEGALEASE-00146652

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MAG Portfolio Consultant, GMBH v. Merlin Biomed Grp. LLC, 268 F.3d 58	25T+182(1)	Under estoppel theory for binding nonsignatory to arbitration agreement, where company knowingly accepted direct benefits of agreement containing arbitration clause, company may be bound by arbitration clause even without signing agreement. 9 U.S.C.A. S 1 et seq.	Can a company be estopped from avoiding an arbitration clause under the estoppel theory?	09913.docx	LEGALEASE-00094913-LEGALEASE-00094914
Westmoreland v. Sadoux, 299 F.3d 462	25T+179	Nonsignatory cannot compel arbitration merely because he is an agent of one of the signatories of arbitration agreement.	Can a nonsignatory compel arbitration because he is an agent of one of the signatories?	Alternative Dispute Resolution - Memo 747 - RK.docx	ROSS-003285941-ROSS-003285942
Gillars v. United States, 182 F.2d 962	384+6	"Treason" consists of two elements, namely, adherence to the enemy, and rendering him aid and comfort, and, hence, a citizen intellectually or emotionally may favor the enemy and harbor sympathies for convictions disloyal to policy or interests of the United States but so long as he commits no act of aid and comfort to the enemy there is no treason, and a citizen may take actions which aid and comfort the enemy, but if there is no adherence to the enemy in that, and there is no intent to betray, there is no treason. U.S.C.A.Const. art. 3, S 3; Act April 30, 1790, 1 Stat. 112.	What are the elements of treason?	Treason - Memo 18 - RK.docx	ROSS-003286937-ROSS-003286938
Carlisle v. U.S., 83 U.S. 147	384+1	"Allegiance" is the obligation of fidelity and obedience which the individual owes to the government under which he lives, or to his sovereign in return for the protection he receives, and it may be an absolute and permanent obligation, or it may be a qualified and temporary one.	How is allegiance defined?	10623.docx	LEGALEASE-00095409-LEGALEASE-00095410
Whigham v. Chase Auto Fin. Corp., 826 F. Supp. 2d 914	34+34.4(6)	Servicemember failed to allege lien held by assignee of financing contract he executed in connection with the purchase of a new truck included any charges for storage, as required to state a claim against assignee under provision of Servicemember Civil Relief Act (SCRA) governing storage liens. Servicemembers Civil Relief Act, S 307, 50 App.U.S.C.A. S 537.	"In order to fall within the Soldiers' and Sailors' Civil Relief Act (SSCRA), must a storage lien include charges for storage?"	Armed Services - Memo 292 - JK.docx	LEGALEASE-00036699-LEGALEASE-00036700
Newman v. People, 23 Colo. 300	63+1(1)	To constitute bribery the act of two persons is essential, that of him who gives and of him who receives. Their minds must concur, but it is immaterial whether the giver makes the first advances or gives the money for some personal advantage to himself.	Is the act of two persons essential to the crime of bribery?	10770.docx	LEGALEASE-00094844-LEGALEASE-00094845
Mun. Paving Co. v. Donovan Co., 142 S.W. 644	268+703(1)	A city ordinance prohibited a movement of any engine propelled by steam over any street, except on tracks, but that the section should not apply to any engine used by any contractor engaged in street work, provided the consent of the mayor was first obtained to the use of the engine. Held, that a contractor's steam roller was an engine within the meaning of such ordinance, and that it was not to be construed as limited to requiring the mayor's consent only in case of a steam engine operated or moved on railway tracks provided for such purpose.	Do the statutes provide any warning regarding use of a steam roller in street?	018628.docx	LEGALEASE-00147690-LEGALEASE-00147691
In re Estate of Gallagher, 383 Ill. App. 3d 901	307A+688	Party moving for involuntary dismissal admits legal sufficiency of complaint but asserts affirmative defense or other matter to defeat plaintiff's claim. S.H.A. 735 ILCS 5/2-619.	What is the purpose of a motion to dismiss that admits the legal sufficiency of the complaint?	11026.docx	LEGALEASE-00094161-LEGALEASE-00094162

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Arrow Marble v. Estate of Killion, 441 S.W.3d 702	307A+690	A dismissal for failure to appear at trial or for want of prosecution should be without prejudice.	Should a dismissal for failure to prosecute be without prejudice?	11117.docx	LEGALEASE-00094185-LEGALEASE-00094186
Arrow Marble v. Estate of Killion, 441 S.W.3d 702	307A+690	A dismissal for failure to appear at trial or for want of prosecution should be without prejudice.	Is a dismissal for failure to prosecute to be without prejudice?	10334.docx	LEGALEASE-00094992-LEGALEASE-00094993
Bowles v. State, 737 N.E.2d 1150	352H+21(1)	Mere touching alone is not sufficient to constitute the crime of child molesting. West's A.I.C. 35-42-4-3.	Does mere touching constitute child molesting?	042965.docx	LEGALEASE-00147952-LEGALEASE-00147953
State v. McCallister, 107 Ariz. 143	110+264	Failure to inform defendant before receiving plea of guilty to molestation of child that defendant would not be entitled to good behavior deduction and double time deduction until he had served at least one year did not mislead defendant who was advised that there was no possibility of parole until minimum sentence was served and who received sentence of not less than five years nor more than 20 years. A.R.S. S 13-653.	Does fondling and touching a child amount to child molesting?	042967.docx	LEGALEASE-00147956-LEGALEASE-00147957
State v. Powell, 62 Wash. App. 914	211+1751	Evidence was insufficient to support inference that defendant had touched child for purposes of "sexual gratification," as required in order to convict for child sexual molestation; on one occasion defendant, whom the child knew, had touched child's underpants in "the front part" while assisting her off his lap after she had sat on it, and on another occasion had touched her thighs through her clothing while they were seated in a truck. West's RCWA 9A.44.010(2).	Can touching being done for the purpose of sexual gratification be inferred?	042977.docx	LEGALEASE-00147966-LEGALEASE-00147967
Thompson v. Iowa Beef Packers, 185 N.W.2d 738	231H+2363	Employees were not required to attempt contract arbitration before they could sue for overtime compensation under Fair Labor Standards Act which contained provisions giving employees strong and detailed rights in court and which antedated Labor Management Relations Act embodying general congressional intent favoring arbitration. Fair Labor Standards Act of 1938, SS 2, 16, 29 U.S.C.A. SS 202, 216; Labor Management Relations Act, 1947, S 301(a), 29 U.S.C.A. S 185(a).	Do employees have to attempt to arbitrate Fair Labor Standards Act (FLSA) claims before they come to court?	Alternative Dispute Resolution - Memo 774 - RK_58107.docx	ROSS-003294257-ROSS-003294258
Boyd v. McCann, 10 Md. 118	83E+426	The fact that a promissory note is payable to blank order, authorizes the holder to fill it up, at any time, with his own name as payee.	Can the holder fill in his own name when the name of payee in a check is left blank?	009634.docx	LEGALEASE-00148731-LEGALEASE-00148732
Polk Chevrolet v. Vicaro, 162 So. 2d 761	83E+440	Where endorser of negotiable paper becomes holder by retransfer, he may strike out his own endorsement and all endorsements subsequent to his own, whether special or not. LSA-R.S. 7:40, 7:48.	Whether an indorsement on a negotiable paper or note or bill be stricken out?	010397.docx	LEGALEASE-00148418-LEGALEASE-00148419
Soldier Valley Sav. Bank v. Camanche Sand & Gravel Co., 219 Iowa 614	83E+342	Check or other instrument not payable to the order of a certain person or to bearer is not a "negotiable instrument". Code 1931, SS 9461, 9468, 9469.	Is it necessary for a negotiable instrument to be payable to order or to bearer?	Bills and Notes -Memo 624 -DB_57860.docx	ROSS-003282668-ROSS-003282669
Bright v. Offield, 81 Wash. 442	83E+358	Rem. & Bal.Code, S 3395, subd. 2, held applicable to notes payable at a fixed period after a specified event which is certain to happen, and not to a note payable at all events at a time which may be accelerated on the happening of a contingency.	Is a negotiable instrument be payable on demand or at a determinable time?	010547.docx	LEGALEASE-00148508-LEGALEASE-00148509

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Gilbert v. Adams, 146 A.D. 864	83E+672	An instrument which acknowledges an indebtedness from the maker to a person named, and which promises to pay a specified sum to such person, "and in the event of my (maker's) death, I hereby authorize and direct the payment of the same out of the funds of my estate," is a promissory note payable on demand, within Negotiable Instruments Law (Consol.Laws 1909, c. 38) SS 26, 29, declaring that an instrument is payable on demand when no time for payment is expressed, etc.; the quoted clause being surplusage.	What is a promissory note?	010560.docx	LEGALEASE-00148689- LEGALEASE-00148690
Johnson Lumber & Supply Co. v. Byron, 113 So. 2d 577	83E+412	Generally, courts will not inquire into adequacy of consideration in transaction between competent parties for discount of note.	"Can court inquire into adequacy of considerations, regarding bills and notes?"	010593.docx	LEGALEASE-00148357- LEGALEASE-00148358
Nationstar Mortg. v. MacPherson, 56 Misc. 3d 339	83E+426	Where the note is endorsed in blank, it may be negotiated by delivery alone. McKinney's Uniform Commercial Code SS 3-202(1), 3-204(2).	Can a note be negotiated by delivery alone when it is endorsed in blank?	010606.docx	LEGALEASE-00148416- LEGALEASE-00148417
Kansas Bankers Sur. Co. v. Ford Cty. State Bank, 184 Kan. 529	8.30E+04	The Uniform Negotiable Instruments Law is a complete codification of law of commercial instruments governing all transactions it purports to cover. G.S.1949, 52-101 et seq.	Does Negotiable Instruments Law control in all cases to which it is applicable?	010618.docx	LEGALEASE-00148648- LEGALEASE-00148649
Bullard v. Smith, 28 Mont. 387	361+1590	Laws 1899, p. 124, amending Civ.Code, S 3996, so as to allow negotiable instruments to contain a provision for reasonable attorney's fees, even if construed as affecting notes given prior to its passage, is not objectionable as being retrospective; the only constitutional limitation as to retrospective legislation being article 3, S 11, prohibiting ex post facto laws and laws impairing the obligation of contracts.	Do negotiable instruments contain a provision for attorney's fees?	010621.docx	LEGALEASE-00148675- LEGALEASE-00148676
Northwestern National Life Insurance Co. v. Laurel Federal Savings Bank, 979 F. Supp. 354	83E+452	"Forged endorsement" under Maryland Uniform Commercial Code (UCC) is one made without actual, implied, or apparent authority. Md.Code, Commercial Law S 1-201(43).	What is a forged endorsement?	010945.docx	LEGALEASE-00148566- LEGALEASE-00148567
United States v. Barnett, 197 F.3d 138	63+1(1)	Statute which prohibits the giving of anything of value to a witness in exchange for testimony is not violated when prosecutors compensate informants for their cooperation. 18 U.S.C.A. S 201(c)(2).	Is 18 U.S.C. 201(c)(2) violated when prosecutors compensate informants for their cooperation?	012393.docx	LEGALEASE-00148530- LEGALEASE-00148531
United States v. Rosen, 716 F.3d 691	63+1(1)	It is the requirement of an intent to perform an act in exchange for a benefit, that is, the quid pro quo agreement, that distinguishes bribery from legal and illegal gratuities. 18 U.S.C.A. S 666(a)(2).	What is a qui pro quo agreement within the meaning of bribery?	012506.docx	LEGALEASE-00148318- LEGALEASE-00148319
People v. Thorn, 176 Cal. App. 4th 255	67+10	In determining whether a structure is part of an inhabited dwelling for purposes of first degree burglary statute, the essential inquiry is whether the structure is functionally interconnected with and immediately contiguous to other portions of the house. West's Ann.Cal.Penal Code S 460.	Is burglary of an inhabited house first degree burglary?	Burglary - Memo 260 - RK_58144.docx	ROSS-003321523-ROSS- 003321524
Alexander v. State, 126 Tex. Crim. 625	67+7	Ownership of burglarized premises must be alleged and proven by title, possession or greater right to possession than defendant in order to sustain burglary conviction. V.T.C.A., Penal Code SS 1.07, 1.07(a)(24, 28), 30.02, 30.02(a), 31.10.	How is the ownership of the burglarized premises proven?	Burglary - Memo 266 - RK_58148.docx	ROSS-003282816-ROSS- 003282817

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State ex rel. Pulskamp v. Bd. of Comm'rs of Mercer Cty., 119 Ohio St. 504	200+146	Payment of alleged illegal assessment cannot be recovered unless involuntarily paid. Gen.Code, S 12075.	Can an alleged illegal assessment be recovered unless involuntarily paid?	Highways -Memo 336 - DB.docx	LEGALEASE-00038372-LEGALEASE-00038373
Davis v. Laster, 130 So. 2d 479	260+79.1(2)	Payment of royalty under an oil, gas and mineral lease is payment of rent and not payment of a price for oil or gas rights as if they were sold.	Is the payment of royalty the payment of rent?	Mines and Minerals - Memo #316 - C - CSS_57767.docx	ROSS-003279824
Hunter v. Gang, 132 Nev. Adv. Op. 22	30+3206	When reviewing the dismissal of an action for want of prosecution under the district court's inherent authority, in considering the conduct of the parties, the appellate court considers whether the parties behaved in accordance with a reasonable and good-faith belief that no court action was necessary.	"To prevent undue delays and to control calendars, can courts exercise inherent power to dismiss a case for failure to prosecute?"	035034.docx	LEGALEASE-00148143-LEGALEASE-00148144
In re Bernard L. Madoff Inv. Sec. LLC, 515 B.R. 117	308+181	Under New York law, if the company benefits while the fraud remains a secret, the adverse interest exception will not apply.	Does the Adverse Interest rule apply if there is a benefit?	041366.docx	LEGALEASE-00148554-LEGALEASE-00148555
Levy v. Brown, 6 Vet. App. 23	34+101	Department of Veterans Affairs (VA) benefits involve no agreement of parties and may be redistributed or withdrawn at anytime in the discretion of Congress.	Can Veterans Administration (VA) benefits be redistributed or withdrawn at any time?	008797.docx	LEGALEASE-00149778-LEGALEASE-00149779
Cantrell v. Shulkin, 28 Vet. App. 382	34+101.1	It is the responsibility of the Department of Veteran's Affairs (VA) to define the terms contained within its own regulations.	Is it the responsibility of the Veterans Administration (VA) to define the terms contained within in its regulations?	008805.docx	LEGALEASE-00149786-LEGALEASE-00149787
United States v. Guar. Tr. Co. of New York, 293 U.S. 340	8.30E+10	Law of District of Columbia determines formal and essential validity of check drawn and payable therein, interpretation of contract, and incidents of obligation.	Which law governs a check?	009657.docx	LEGALEASE-00149671-LEGALEASE-00149672
Hurlbut v. Quigley, 180 Cal. 265	83E+629	The words above indorsers' name, "I hereby waive presentment," etc., are governed by Civ.Code, S 1660, declaring that a promise made in the singular number, but executed by several persons, is presumed to be joint and several.	When is a promise presumed to be joint and several?	Bills and Notes - Memo 764 -IS_58515.docx	ROSS-003319145
Rogers v. Durant, 140 U.S. 298	83E+741	Act III. Nov. 5, 1849, p. 45, provides in section 2 that "all actions founded upon * * * bills of exchange, orders," etc., "shall be commenced within five years next after the cause of action shall have accrued." Held, that this section includes checks, and that they do not fall within the terms, "other evidence of indebtedness in writing," as to which the limitation is fixed by section 1 at 16 years.	Is order a bill of exchange?	009659.docx	LEGALEASE-00149682-LEGALEASE-00149683
Parke State Bank v. Akers, 659 N.E.2d 1031	172H+517	Certificates of deposit are contracts and can create third-party beneficiary rights in those parties identified with rights of survivorship. (Per Selby, J., with one Judge concurring and one Judge concurring in the result.)	Are Certificate of Deposit (CD) considered to be Contracts?	009670.docx	LEGALEASE-00149738-LEGALEASE-00149739
Curtis v. Davidson, 215 N.Y. 395	83E+462	The holder of a note may sue both maker and indorser, or either, and an indorser is absolutely liable; the maker's solvency being no defense.	Can the holder of a note sue both maker and indorser?	Bills and Notes- Memo 706-ANM_58222.docx	ROSS-003281567-ROSS-003281568
Oddo Asset Mgmt. v. Barclays Bank PLC, 19 N.Y.3d 584	108H+6	A debtor and creditor have no special relationship of confidence and trust, and the relationship is generally controlled by contract.	What controls a creditor debtor relationship?	014117.docx	LEGALEASE-00149859-LEGALEASE-00149860

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Anthem, 129 F. Supp. 3d 887	135+1	Person's "domicile" is her permanent home, where she resides with intention of remaining or to which she intends to return.	Is a person's domicile their permanent home?	014520.docx	LEGALEASE-00149127-LEGALEASE-00149128
Kimama Highway Dist. v. Oregon Short Line R. Co., 298 F. 431	200+90	A highway district in Idaho is not a political municipality created for governmental purposes, but its powers are specially limited to the construction of highways for the benefit of the inhabitants and property therein.	Is highway district created for governmental purposes?	018653.docx	LEGALEASE-00149631-LEGALEASE-00149632
Macon Cty. v. City of Oglethorpe, 229 Ga. 687	200+64	Injunction lay to prevent county from constructing road through territory within corporate limits of municipality without consent of municipality.	Does the creation of a municipal corporation restrict power of the counties over roads?	Highways-Memo 223-ANM_58287.docx	ROSS-003280684-ROSS-003280685
The Irresistible, 20 U.S. 551	221+211	The proviso in the repealing clause of the neutrality act of April 20, 1818, 3 Stat. 450, that persons having offended against any of the acts aforesaid may be prosecuted, convicted, and punished as if the same were not repealed, and no forfeiture heretofore incurred by a violation of any of the acts aforesaid shall be affected by such repeal, did not authorize a forfeiture under Act March 3, 1817, 3 Stat. 370, included in the repeal, after the time when that act would have expired by its own limitation, as an offense against a temporary statute cannot be punished after the expiration of the act, unless a particular provision be made for that purpose.	Can an offence against a temporary act be punished after the expiration of the act?	Neutrality Laws - Memo 12 - RK_58645.docx	ROSS-003293342-ROSS-003293343
Gayon v. McCarthy, 252 U.S. 171	221+212	Cr.Code, S 10, as amended by Act May 7, 1917, 18 U.S.C.A. S 22, as to hiring or retaining another to go outside the United States with intent to enlist in the service of a foreign people, uses "retain" as an alternative to "hire," and as meaning something different from the usual employment with payment in money; and one may be retained, in the sense of engaged, to render a service by a verbal promise, and by a prospect for advancement or payment in the future.	What is the meaning of the term retain?	Neutrality Laws - Memo 31 - ANM_58558.docx	ROSS-003307545-ROSS-003307546
Guthrie v. Nat'l Advert. Co., 556 N.E.2d 337	277+2	Notice is actual where the purchaser is aware of the adverse claim or title or has such information as would lead to knowledge.	When can a notice be inferred as an actual notice?	021752.docx	LEGALEASE-00149435-LEGALEASE-00149436
Shafer v. Randolph, 99 Pa. 250	289+472	One who holds himself out or knowingly permits himself to be held out as a partner, on the faith of which others give credit to the firm, will be held liable as such.	Can a person who in reality is not a partner but holds himself out as a partner be considered to be one?	022548.docx	LEGALEASE-00149889-LEGALEASE-00149890
Swiren v. C.I.R., 183 F.2d 656	289+558	Under Illinois law, a partnership interest is property distinct and separate from the partnership or underlying assets. S.H.A.Ill. ch. 1061/212, SS 24-26.	Is partnership interest distinct from the partnership assets?	022562.docx	LEGALEASE-00149897-LEGALEASE-00149898
Crouch v. Bowman, 22 Tenn. 209	289+639	Every partner is the agent of the partnership, may transact business in its name, and in all simple contracts relating to the business of the partnership he may bind the members of the firm; but in order to do this he must act in the name of the firm and in signing notes, bills, &c. he must subscribe the name or style by which they are known as a firm, and in which they do business.	Does an act by a partner have to be done in the name of the firm in order to bind the firm?	022576.docx	LEGALEASE-00149905-LEGALEASE-00149906
Redman v. Kelty, 795 A.2d 684	307A+581	Lesser sanctions must be considered before dismissal of the complaint is justified, as the sanction for lack of prosecution. Civil Rule 41(b).	Is lesser sanctions considered before dismissal of the complaint justified?	Pretrial Procedure - Memo # 7965 - C - SS_58327.docx	ROSS-003292257-ROSS-003292258

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Holder v. Orange Grove Med. Specialties, P.A., 54 So. 3d 244	307A+581	What constitutes failure to prosecute as grounds for dismissal is considered on a case-by-case basis. Rules Civ.Proc., Rule 41(b).	Is failure to prosecute considered on a case-by-case basis?	036380.docx	LEGALEASE-00149193- LEGALEASE-00149194
Loleta B. Wing Tr. v. Wing, 92 So. 3d 708	307A+581	What constitutes failure to prosecute, for purposes of motion for involuntary dismissal, is considered on a case-by-case basis. Rules Civ.Proc., Rule 41(b).	Is failure to prosecute considered on a case-by-case basis?	Pretrial Procedure - Memo # 7987 - C - SU.docx	LEGALEASE-00039342- LEGALEASE-00039343
State, Dep't of Transp. & Dev. v. Cole Oil & Tire Co., 822 So. 2d 229	307A+581	Abandonment statutes are intended to dismiss those actions in which a plaintiff's inaction has clearly demonstrated his abandonment of the case, and not to dismiss those cases in which a plaintiff has clearly demonstrated that he does not intend to abandon the action.	What is an abandonment statute intended to do?	Pretrial Procedure - Memo # 8059 - C - NS_58413.docx	ROSS-003321544-ROSS- 003321545
Grimes v. D.C., Bus. Decisions Info. Inc., 89 A.3d 107	302+8(1)	Pleadings that are no more than conclusions are not entitled to the assumption of truth on motion to dismiss or for judgment on pleadings, and are insufficient to sustain a complaint.	Are pleadings that are no more than conclusions not entitled to the assumption of truth?	036903.docx	LEGALEASE-00150043- LEGALEASE-00150044
Twp. of Wayne v. Messercola, 789 F. Supp. 1305	184+59(1)	Under New Jersey law, attorney who was jointly liable as aider and abettor to breach of fiduciary duty relating to scheme by real estate developer to bribe mayor was liable for full amount of bribe paid by developer, even though mayor only received portion of bribe. N.J.S.A. 2C:5-1, 2C:41-2.	Can participants in a scheme that involves an agents breach of duty be jointly held liable?	041376.docx	LEGALEASE-00149831- LEGALEASE-00149832
State v. Daughtry, 340 N.C. 488	352H+49	First-degree sexual offense is not specific intent crime; intent to commit crime is inferred from commission of act.	Is first-degree sexual offense a specific-intent crime?	042994.docx	LEGALEASE-00149800- LEGALEASE-00149801
Knudtson v. Citizens' Nat. Bank & Tr. Co. of Sioux Falls, 62 S.D. 71	371+2763	Taxes are not debts, but liabilities created by statute and without authority of law do not draw interest.	Do taxes draw interest?	Taxation - Memo # 847 - C - JL_58475.docx	ROSS-003278893-ROSS- 003278894
Citizens' Sav. & Loan Ass'n v. City of Topeka, 87 U.S. 655	371+2001	A "tax" is a rate or sum of money assessed on the person or property of a citizen by government for the use of the nation or state and "taxes" are burdens or charges imposed by the legislature upon persons or property to raise money for public purposes.	What is the purpose for taxation?	045934.docx	LEGALEASE-00149386- LEGALEASE-00149387
People v. Casciaro, 2015 IL App (2d) 131291	3.77E+06	The purpose of the intimidation statute is the prohibition of making threats intended to compel a person to act against his will. S.H.A. 720 ILCS 5/12-6(a)(1).	What is the purpose of the intimidation statute?	"Threats, Stalking, and Harassment - Memo #6 - C - LB_58579.docx"	ROSS-003281389-ROSS- 003281390
Envtl. Prot. Info. Ctr. v. Dep't of Forestry & Fire Prot., 43 Cal. App. 4th 1011	411+5	Rule of construction, expressio unius est exclusio alterius, that where exceptions to a general rule are specified by statute, other exceptions are not to be implied or presumed, applied in considering challenge to Board of Forestry (BOF) regulation excusing persons owning three acres or less of property from having to comply with timber harvest plan (THP) requirements of Forest Practice Act, legislature had directly and in detail dealt with what BOF may do regarding authorizing exemptions to THP requirement and broad general grant of authority did not give BOF authority to materially broaden exemptions by regulation. West's Ann.Cal.Pub.Res.Code SS 4551, 4551 et seq., 4584; Cal.Code, Regs. title 14, S 1038, subd. (c).	Is it the board or the courts that establishes forest policy?	047567.docx	LEGALEASE-00149720- LEGALEASE-00149721

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
W. Virginia Div. of Izaak Walton League of Am. v. Butz, 522 F.2d 945	411+8	As used in Organic Act provision that timber in national forest, before being sold, shall be marked and designated, "marked" means selection and indication by a blaze, paint or marking hammer on the stem of trees to be felled or retained, and "designate" means to indicate, and as the words are not synonymous, forest service must not only designate that area from which timber is to be sold, but mark each individual tree authorized to be cut. 16 U.S.C.A. S 476.	What is the meaning of the term marking in forestry?	047590.docx	LEGALEASE-00149571- LEGALEASE-00149572
W. Virginia Div. of Izaak Walton League of Am. v. Butz, 522 F.2d 945	411+7	As used in provision of Organic Act authorizing secretary of agriculture to designate for sale the dead, matured or large growth of trees found upon national forests, the phrase "large growth of trees" requires that each individual tree be identified as "large," and does not merely signify a sizeable stand or grouping of trees, and the word "mature" means physiological maturity rather than economic or management maturity. 16 U.S.C.A. S 476.	Does mature tree or timber refer only to physiological maturity?	047592.docx	LEGALEASE-00149579- LEGALEASE-00149580
Newman v. City of Indianola, 232 N.W.2d 568	371+2060	There is a distinction between a "tax" and an "assessment"; a "tax" is a charge to pay the cost of government without regard to special benefits conferred.	What distinguishes tax from assessment?	045979.docx	LEGALEASE-00150256- LEGALEASE-00150257
State v. Smith, 10 R.I. 258	3.77E+10	"Purpose," as an element of the offense of making terroristic threats, means aim, objective, or intention, and "terrorize," as an element of the offense, means to cause extreme fear by use of violence or threats. M.S.A. S 609.713.	"What does ""purpose"" mean within the context of the terroristic-threats statute?"	Threats and Stalking - Memo #36 - C - LB.docx	LEGALEASE-00040483- LEGALEASE-00040484
Bank of Danielsville v. Seagraves, 167 Ga. App. 135	83E+483	Assignment of note means transfer of title to instruments so that recipient may bring an action thereon.	What is meant by assignment of a note?	009050.docx	LEGALEASE-00151000- LEGALEASE-00151001
Latham v. Brown, 16 Iowa 118	97C+211	The amount of promissory notes delivered to a justice of the peace for collection, and wrongfully converted to his own use, is prima facie the measure of damages for such conversion; but the insolvency of the makers may be shown in mitigation of damages.	Is the amount of the face value of notes or choses in action which have been improperly converted the measure of its damages?	Bills and Notes- Memo 429 -DB.docx	LEGALEASE-00040586- LEGALEASE-00040587
Gibson v. Spikes, 143 Ark. 270	200+121	The Legislature has the power to levy road improvement assessments subject only to the right of the owner to have an arbitrary abuse of that power reversed by the courts.	Does the Legislature have the power to levy assessments?	Highways -Memo 361 - DB_59240.docx	ROSS-003312564
In re Estate of Capuzzi, 470 Mich. 399	308+92(1)	A duly authorized agent has the power to act and bind the principal to the same extent as if the principal acted.	Can a duly authorized agent bind his principal?	041470.docx	LEGALEASE-00151327- LEGALEASE-00151328
Theos & Sons v. Mack Trucks, 1999 Mass. App. Div. 14	308+1	The essence of the principal-agent relationship is the right of power or control by the alleged principal over the conduct of the alleged agent.	Does an agent serve under the control and supervision of his principal?	041474.docx	LEGALEASE-00151337- LEGALEASE-00151338
Porges v. United States Mortg. & Tr. Co., 203 N.Y. 181	308+92(1)	One dealing with the agent of another without ascertaining the scope and reach of the powers delegated to him does so at his peril.	Should a party dealing with an agent ascertain the scope or extent of the powers delegated to him?	Principal and Agent - Memo 193 - KC_59474.docx	ROSS-003285586-ROSS- 003285587
Forest Guardians v. U.S. Forest Serv., 329 F.3d 1089	411+7	Forest Service is entitled to substantial deference to its interpretation of its own regulations.	Is the Forest Service entitled to substantial deference to its interpretation of its own regulations?	Woods and Forest - Memo 13 - ANM_59290.docx	ROSS-003292785-ROSS- 003292786

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Kittel v. Augusta, T. & G.R. Co., 65 F. 859	108H+956	A creditor's bill which alleges that the marshal has returned, upon the execution on plaintiff's judgment, that there are no goods and chattels of defendant, but does not show that the marshal made any attempt to find leviable property of other kinds, or that the defendant was insolvent, or that it had no other property than that claimed to have been fraudulently disposed of, does not show that plaintiff has exhausted his remedy at law.	Are judgments and fruitless executions necessary to show that the creditor has no adequate legal remedy?	014082.docx	LEGALEASE-00151539- LEGALEASE-00151541
Seitz-Partridge v. Loyola Univ. of Chicago, 409 Ill. App. 3d 76	141E+1190	Student did not introduce sufficient evidence to withstand summary judgment on breach of implied and express contract claims against university and individual faculty members who collectively denied student's application for admission into school's postgraduate doctorate program upon finding that she had committed plagiarism; student was unable to show that faculty members treated her in a manner that was arbitrary, capricious, or in bad faith, and student took full advantage of the university's three-tiered review process for students such as herself who had not successfully passed the preliminary examination necessary for admission.	Does a students breach of contract claim against a private university treated somewhat differently from a typical breach of contract claim?	016710.docx	LEGALEASE-00151482- LEGALEASE-00151484
In re Divelbess' Estate, 216 Iowa 1296	83E+416	Note payable to makers must be indorsed by all of them on back thereof to give it validity. Code 1931, S 9509.	Are notes payable to the order of the maker valid without indorsement?	009717.docx	LEGALEASE-00151596- LEGALEASE-00151597
Burke Cty. v. Askin, 291 Ga. 697	200+79.1	County had discretion to abandon road and trial court's role was limited to review of any such exercise of that discretion.	Is a countys discretionary authority to abandon a road granted by statute?	Highways - Memo 300 - RK_59593.docx	ROSS-003281916-ROSS-003281917
Cent. Pac. Ry. Co. v. Alameda Cty., Cal., 284 U.S. 463	157+67(3)	Proof of establishment of road raised presumption of continuing identity, and party claiming otherwise had burden to prove abandonment.	Is the continuing identity of a road presumed until overcome by proof to the contrary?	018726.docx	LEGALEASE-00151695- LEGALEASE-00151696
In re Cohn Bros., 45 B.R. 723	172H+587	Where one payee's endorsement was missing from check when it was presented to bank, check was unenforceable on its face, and bank, by accepting check and providing depositor with a provisional settlement, converted check under Pennsylvania law. 13 Pa.C.S.A. SS 3101 et seq., 3116(2), 3403, 3406, 3419, 3419(a)(3), (b, c), 4101 et seq.	What happens if the endorsement of one payee is missing?	010281.docx	LEGALEASE-00152353- LEGALEASE-00152354
Polk Chevrolet v. Vicaro, 162 So. 2d 761	83E+440	Where endorser of negotiable paper becomes holder by retransfer, he may strike out his own endorsement and all endorsements subsequent to his own, whether special or not. LSA-R.S. 7:40, 7:48.	Can the holder of the note strike out endorsements?	010759.docx	LEGALEASE-00152475- LEGALEASE-00152476
Unlimited Adjusting Grp. v. Wells Fargo Bank, N.A., 174 Cal. App. 4th 883	83E+406	The intended payee of a check may negotiate the check by indorsing it and depositing it in his or her bank account.	Can a payee negotiate a check by depositing it or transferring it to another person?	010765.docx	LEGALEASE-00152483- LEGALEASE-00152484
Zuendt v. Doerner, 101 Mo. App. 528	8.30E+270	The surrender and cancellation of an old note is sufficient consideration for the execution of a new one given in lieu thereof.	Is surrender of note a good consideration for making another note?	010774.docx	LEGALEASE-00152493- LEGALEASE-00152494

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Anderson v. Nesbitt, 43 Ind. App. 703	28+53	Owner of cows wrongfully allowing them to run at large on highway is not liable for injuries caused by horse frightened at the cows and running away; there being no special circumstances, such as allowing them to run at large during nighttime, or that they so obstructed the beaten part of highway that a horse would be frightened.	Will the object of the highway in violation of statute make the owner liable?	019135.docx	LEGALEASE-00152642-LEGALEASE-00152644
In re Arbitration Between Nat. Union Fire Ins. Co. of Pittsburgh, P.A. v. Pers. Plus, 954 F. Supp. 2d 239	25T+141	Temporary services provider had either actual or apparent authority to act as its affiliate's agent in signing agreements for workers' compensation insurance program, which thus were binding on affiliate, including payment agreement containing arbitration provision, where payment agreement defined parties to include named client and each of client's affiliated organizations, affiliate was named insured under provider's policies with insurer, provider's owners were parents of affiliate's owner, financial documents identified affiliate as "related party to" provider, one of provider's owners signed documents on behalf of both entities, and insurance broker submitted application materials on behalf of both entities in connection with insurance program.	Does an agent have actual or apparent authority?	Principal and Agent - Memo 228 - KC_60114.docx	ROSS-003294221-ROSS-003294223
Century Capital Grp. v. Barthels, 196 Wis. 2d 806	308+84	A fiduciary is liable for damages arising out of breach of fiduciary duty, and any losses caused may be offset against any claim he makes for compensation.	Will an agent be liable for damages in the event of breach?	042061.docx	LEGALEASE-00152251-LEGALEASE-00152252
Gusma Properties v. Travelers Lloyds Ins. Co., 514 S.W.3d 319	308+92(2)	Where an agent misappropriates payments intended for its principal, it is the principal that bears the loss because, after the payment has been made to the agent, the payment is deemed to have been made to the principal.	Does payment to authorized agent constitute payment to principal even if funds are misappropriated?	Principal and Agent - Memo 61- KC_60268.docx	ROSS-003280395-ROSS-003280396
Idaho Wool Growers Ass'n v. Vilsack, 816 F.3d 1095	149E+599	National Environmental Policy Act (NEPA) imposes on federal agencies conducting environmental review a duty to consult with certain other agencies. National Environmental Policy Act of 1969, S 102(2)(C), 42 U.S.C.A. S 4332(2)(C).	Do federal agencies have to consult other agencies?	Woods and Forests- Memo 48-ANM.docx	LEGALEASE-00042503-LEGALEASE-00042504
United States v. Parker, 761 F.3d 986	411+8	While county's easement may have removed a highway from definition of "National Forest System road," as used in regulations prohibiting certain activities in and around Forest Service property, it did not deprive the Forest Service of authority over the road, and thus Forest Service retained jurisdiction to regulate use of the highway and to protect Forest Service lands underlying the highway from unauthorized use by commercial snowmobile operation. 36 C.F.R. SS 261.1, 261.10(c).	What is a National Forest System road?	Woods and Forests- Memo 50- ANM_60277.docx	ROSS-003283390-ROSS-003283391
Johnson v. Arrigoni, 5 Or. 485	83E+618(4)	An indorser on note, who was discharged by laches of holder in failing to present the demand note for payment to maker until over seven months after time defendant indorser indorsed the note, could be held liable to pay note by his subsequent promise to do so with full knowledge that he had been discharged by such laches.	When does the indorser incur liability for a note?	Bills and Notes - Memo 842 - RK_60295.docx	ROSS-003322244-ROSS-003322245

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Waters v. Millar, 1 U.S. 369	83E+751	The sale and delivery of a promissory note, payable to order, without indorsement or assignment, does not entitle the holder to sue in his own name.	Does a note payable to order have to be assigned to enable the holder to bring an action in his own name?	Bills and Notes - Memo 881 - RK_60680.docx	ROSS-003307449-ROSS-003307450
First Nat. Bank v. Moore, 137 F. 505	83E+406	In the absence of a statute to the contrary, a written assignment of a negotiable note, payable to order, is not necessary to transfer an equitable title to the note to the transferee.	Does a note payable to order have to be assigned to enable the holder to bring an action in his own name?	009826.docx	LEGALEASE-00153547-LEGALEASE-00153548
Carpenter v. Longan, 83 U.S. 271	266+1414	Where security is given for negotiable note, the transfer of the note carries with it the security, without any formal assignment or delivery, or even mention of the security.	What happens to the security when a note is transferred?	Bills and Notes - Memo 887 - RK_60686.docx	ROSS-003278324-ROSS-003278325
Rothwell v. Taylor, 303 Ill. 226	191+47(1)	The burden is on alleged donee of negotiable instruments to prove all facts essential to a valid gift.	Who shares the burden to prove all facts essential to a valid gift?	009843.docx	LEGALEASE-00153564-LEGALEASE-00153565
Hawley v. Sloo, 12 La. Ann. 815	8.30E+10	A promissory note payable generally must bear the rate of interest of the place where it is made.	Will the place where the note is made determine the rate of interest?	009867.docx	LEGALEASE-00153584-LEGALEASE-00153585
Warner v. Beardsley, 8 Wend. 194	83E+462	To discharge an indorser on the ground of the omission of the creditor to proceed against the principal debtor when requested so to do, it must appear that the principal was solvent at the time of the request, within the jurisdiction of the state in which the suit against the surety is instituted, and that the creditor, without any reasonable excuse, neglected or refused to proceed until the principal debtor became insolvent and unable to pay.	Will the surety be discharged from a debt when it is due?	Bills and Notes - Memo 922 - RK_60718.docx	ROSS-003280013-ROSS-003280014
Rubio v. Capital One Bank, 613 F.3d 1195	172H+1344	Although clarity and conspicuousness of a disclosure of annual percentage rates (APR) in a credit card solicitation is a question of law, under Truth in Lending Act (TILA), empirical evidence is helpful in determining what a reasonable consumer will understand and readily notice. Truth in Lending Act, S 127(c)(1)(A)(i)(I), 15 U.S.C.A. S 1637(c)(1)(A)(i)(I); 12 C.F.R. S 226.5a(b)(1).	What are clear and conspicuous disclosures?	013950.docx	LEGALEASE-00153766-LEGALEASE-00153767
Cohen v. Bd. of Trustees of Univ. of Med. & Dentistry of New Jersey, 240 N.J. Super. 188	141E+990	State universities may be classified as instrumentalities of the state for some particular purposes and not for others.	Can universities be classified as instrumentalities of the state for a particular purpose?	Education - Memo #167 - C - ATS_60332.docx	ROSS-003281019-ROSS-003281020
In re Exec. Comm'n On Ethical Standards Re: Appearance of Rutgers Attorneys, 116 N.J. 216	78+1346	Rutgers University is not an alter ego of the state of New Jersey, but, a "person" subject to liability for purposes of a federal civil rights action. 42 U.S.C.A. S 1983.	Is a university a person subject to liability under the law?	017066.docx	LEGALEASE-00152858-LEGALEASE-00152859
Stow v. Wyse, 7 Conn. 214	156+27(2)	All persons claiming under and through the party estopped by deed, are bound by the estoppel.	Are all persons claiming under a party estopped bound equally by the estoppel?	018024.docx	LEGALEASE-00153037-LEGALEASE-00153038

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Sealy v. Perdido Key Oyster Bar & Marina, 88 So. 3d 366	307A+681	Trial court could not dismiss architect's complaint against client for breach of contract, enforcement of construction lien, and account stated on the basis of architect's alleged failure to register with the Department of State the fictitious name under which he was doing business and to obtain a certificate of authorization from the Department of Business and Professional Regulation to provide architectural services under the fictitious name; trial court improperly relied on material outside the four corners of the complaint, including architect's deposition testimony and printed copies of pages from Department of State's website showing that the fictitious name was not registered. West's F.S.A. SS 481.219(2), 865.09(9)(a).	"For purposes of ruling on a motion to dismiss, can the trial court look no further than the four corners of the complaint?"	Pretrial Procedure - Memo # 8960 - C - SKG_60413.docx	ROSS-003296761
Jensen v. Doherty, 101 Idaho 910	307A+581	Dismissal for failure to prosecute is a remedy to be sparingly used, but it is always available. Rules of Civil Procedure, Rule 41(b).	Is dismissal for failure to prosecute a drastic remedy to be granted sparingly?	038372.docx	LEGALEASE-00152808-LEGALEASE-00152809
BE & K Const. Co. v. United Bhd. of Carpenters & Joiners of Am., AFL-CIO, 90 F.3d 1318	308+1	Agency requires manifestation by principal that agent shall act for him, agent's acceptance of undertaking, and understanding of parties that principal is to be in control of undertaking.	What are the elements of agency?	041297.docx	LEGALEASE-00153097-LEGALEASE-00153098
In re Richard P., 227 W. Va. 285	308+10(1)	At common law, a parent or legal guardian may transfer medical, educational, and other legal decision-making authority for his or her child or ward to another adult through the execution of a power of attorney, and such instruments are revocable and automatically terminate upon disability or incapacity of the principal.	Does a power of attorney terminate upon the death of the principal?	041404.docx	LEGALEASE-00153659-LEGALEASE-00153660
In re Richard P., 227 W. Va. 285	308+10(1)	At common law, a parent or legal guardian may transfer medical, educational, and other legal decision-making authority for his or her child or ward to another adult through the execution of a power of attorney, and such instruments are revocable and automatically terminate upon disability or incapacity of the principal.	Can a power of attorney grant someone the authority to act as an agent?	Principal and Agent - Memo 156 - SB_60775.docx	ROSS-003283232-ROSS-003283233
Cole v. McWillie, 464 S.W.3d 896	308+43(1)	An agent's authority to bind his principal terminates upon the principal's death.	Does an agents authority terminate upon the principals death?	Principal and Agent - Memo 157 - SB_60776.docx	ROSS-003293897-ROSS-003293898
Eugene Theatre Co. v. City of Eugene, 194 Or. 603	371+3602	An "excise tax" is something cut off from the price paid on a sale of goods as a contribution to the support of the government.	What is an excise tax?	Taxation - Memo # 892 - C - JL_60599.docx	ROSS-003293037-ROSS-003293038
Dukesherer Farms v. Ball, 405 Mich. 1	371+2001	Taxes are exactions or involuntary contributions of money which are sanctioned by law and enforceable by courts and which are imposed primarily for public rather than private purposes.	Are taxes and assessments both sanctioned by law and enforceable by the courts?	046022.docx	LEGALEASE-00153326-LEGALEASE-00153327
City of Louisville v. Sebree, 308 Ky. 420	371+2001	The character of any tax is to be determined by its incidence, and the name by which it is described in legislation imposing it is immaterial.	Is the name by which a tax is described in the legislation significant to the character of the tax?	046039.docx	LEGALEASE-00153374-LEGALEASE-00153375
Procella v. Beto, 319 F. Supp. 662	21+5	In Texas, as a general rule, affidavits which are notarized by counsel offering them into evidence are void.	Are affidavits which are notarized by the counsel void?	006618.docx	LEGALEASE-00153971-LEGALEASE-00153972

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Barhydt v. Alexander, 59 Mo. App. 188	21+8	The statement of the venue is an essential part of every affidavit, and its omission is fatal.	Is venue an essential part of every affidavit?	Affidavits - Memo 57 - _1FnTSDVJSHRWOVoNcl4Vjc-ynM5N9ULYC.docx	ROSS-000000210-ROSS-000000211
Capitol Hill State Bank v. Rawlins Nat. Bank of Rawlins, 24 Wyo. 423	388+45(1)	In an action by the indorsee and holder of an unpaid certificate of deposit issued by the defendant bank, execution of the instrument being admitted by the answer, but its indorsement by payee denied, the offer of the certificate in evidence did not include the indorsement which was not essentially a part of the certificate, and in the absence of proof of the indorsement was insufficient to prove the fact of indorsement or to entitle the indorsement to be admitted in evidence.	Is it mandatory to include indorsement in an offer of the certificate of evidence?	Bills and Notes - Memo 1007 - RK.docx	LEGALEASE-00043638-LEGALEASE-00043639
Midfirst Bank, SSB v. C.W. Haynes & Co., 893 F. Supp. 1304	83E+522	"Possession" required under South Carolina law to constitute a "holder" of negotiable instrument may be constructive possession by delivery to third party on first person's behalf. S.C.Code 1976, S 36-1-201(20).	Who is a holder in terms of an instrument?	009774.docx	LEGALEASE-00154737-LEGALEASE-00154738
Maddox v. Robbert, 165 La. 694	83E+841	Transfer, without indorsement, of note payable to order, may be proved by parol.	Can a note be transferred without indorsement?	009967.docx	LEGALEASE-00153778-LEGALEASE-00153779
Strubel v. Comenity Bank, 842 F.3d 181	172H+1595	Credit card holder, who brought action alleging that bank's billing-rights disclosures failed to comply with TILA's mandatory disclosure requirements, sufficiently alleged the invasion of a legally protected interest, as required to satisfy the injury in fact requirement for Article III standing; Congress, through TILA, conferred legal interests on consumers by obligating creditors to make specified disclosures "to the person whom credit is to be extended." U.S. Const. art. III, S 2; Truth in Lending Act S 127, 15 U.S.C.A. S 1637(a)(7).	Is a creditor obligated to make disclosures?	Consumer Credit - Memo 45 - JK_61321.docx	ROSS-003323195-ROSS-003323196
Brenny v. Bd. of Regents of Univ. of Minnesota, 813 N.W.2d 417	141E+992	University of Minnesota is a legal entity within the State of Minnesota; the university has autonomous status as a constitutional corporation.	Is a university a constitutional corporation?	016774.docx	LEGALEASE-00154113-LEGALEASE-00154114
Magnetti v. Univ. of Maryland, 402 Md. 548	141E+1055	The University of Maryland is considered to be an arm of the State Government for the purposes of the sovereign immunity doctrine. West's Ann.Md.Code, Education, S 12-102(a).	Is a university an arm of the state government?	Education - Memo # 229 - C - ATS_61011.docx	ROSS-003308417-ROSS-003308418
State v. Tracy, 539 N.W.2d 327	200+18	As long as section line highway has not been legally vacated, public has right to travel on it. SDCL 31-18-1.	"Can the abandonment of a section line right-of-way be established by evidence that the highway has never been open, improved, or traveled?"	018811.docx	LEGALEASE-00154629-LEGALEASE-00154630
Johnson v. Herring, 89 Mont. 156	302+26	Under Code, pleading need only allege facts in ordinary and concise language (Rev.Codes 1921, S 9129).	"In a pleading, should facts be alleged in ordinary and concise language?"	023734.docx	LEGALEASE-00154248-LEGALEASE-00154249
Parker v. Town of Erwin, 243 N.C. App. 776 S.E.2d 710	30+3213	When an appellate court reviews a decision as to personal jurisdiction, it considers only whether the findings of fact by the trial court are supported by competent evidence in the record; if so, it must affirm the order of the trial court. Rules Civ.Proc., Rule 12(b)(2), West's N.C.G.S.A. S 1A-1.	"If a defendant supplements his motion to dismiss for lack of personal jurisdiction with an affidavit or other supporting evidence, can the allegations in the complaint no longer be taken as true or controlling?"	Pretrial Procedure - Memo # 9531 - C - SHB.docx	LEGALEASE-00044391-LEGALEASE-00044392
Nuzum v. Spriggs, 357 Pa. 531	308+92(1)	Where agent has authority to exercise discretion, his exercise thereof will bind principal.	"When an agent has authority to exercise discretion, will his exercise bind the principal?"	041539.docx	LEGALEASE-00154258-LEGALEASE-00154259

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Ingram v. Mandler, 56 F.2d 994	83E+481	Note may be transferred by assignment without actual delivery.	Could a promissory note be transferred by assignment without the actual delivery of the note?	010794.docx	LEGALEASE-00155334-LEGALEASE-00155335
Anthony v. Anthony, 642 F. Supp. 2d 1366	172H+1341	Homeowner's lack of assent to forged mortgage refinancing documents never contractually obligated homeowner, under Florida law, as required for "consummation" of contract, within meaning of TILA disclosure requirements for providing good faith estimates of credit terms and correcting any inaccuracies prior to consummating residential mortgage transactions, and thus, TILA provided homeowner no remedy against lender. Truth in Lending Act, S 128(b), 15 U.S.C.A. S 1638(b); 12 C.F.R. S 226.2(a)(13).	Does TILA provide a remedy in cases of forged contracts?	Consumer Credit - Memo 198 - RK_61860.docx	ROSS-003310396-ROSS-003310397
In re Quenzer, 266 B.R. 760	172H+1557	Obligor's decision to rescind a transaction under the Truth in Lending Act (TILA) is effective as soon as creditor receives the required notice of rescission, and immediately voids creditor's security interest. Truth in Lending Act, S 125(a, b), as amended, 15 U.S.C.A. S 1635(a, b); 12 C.F.R. S 226.23(d).	Can the obligor exercise his right of rescission by notifying the creditor within the prescribed time limit of his intent to rescind?	013991.docx	LEGALEASE-00154841-LEGALEASE-00154842
In re Quenzer, 266 B.R. 760	172H+1557	Obligor's decision to rescind a transaction under the Truth in Lending Act (TILA) is effective as soon as creditor receives the required notice of rescission, and immediately voids creditor's security interest. Truth in Lending Act, S 125(a, b), as amended, 15 U.S.C.A. S 1635(a, b); 12 C.F.R. S 226.23(d).	Can the obligor exercise his right of rescission by notifying the creditor within the prescribed time limit of his intent to rescind?	Consumer Credit - Memo 15 - AM_61335.docx	ROSS-003323783-ROSS-003323784
Psensky v. Am. Honda Fin. Corp., 378 N.J. Super. 221	172H+15(2)	Truth in Lending Act (TILA) limitation on liability of assignee of consumer car loan preempted buyer's claim under state Retail Installment Sales Act and Federal Trade Commission (FTC) holder rule that finance company was liable for dealership's failure to itemize certain registration expenses on disclosure form, even though buyer did not assert any TILA claim, given that state law claim interfered with TILA's purpose to limit liability to disclosures that were apparent on the face of the disclosure form, and FTC holder rule, as agency regulation, could not trump TILA, as law passed by Congress; overruling Scott v. Mayflower Home Improvement Corp., 363 N.J. Super. 145, 831 A.2d 564. Truth in Lending Act, S 131(a), as amended, 15 U.S.C.A. S 1641(a); 16 C.F.R. S 433.2(a); N.J.S.A. 17:16C-38.2.	"Under TILA, will an assignee be liable if the violation is apparent on the face of the disclosure statement?"	Consumer Credit - Memo 19 - AM_61336.docx	ROSS-003306840
State Univ. of New York v. Syracuse Univ., 285 A.D. 59	360+199	State University was an integral part of State Government, and when such University was sued through counterclaim in action by State University against another University for specific performance of a contract between the two Universities, State was the real party, and, therefore, in such action, the Supreme Court would not acquire jurisdiction of the counterclaim. Education Law, S 352 et seq.	Is a university an integral part of state government?	017105.docx	LEGALEASE-00155264-LEGALEASE-00155266
Rison v. Farr, 24 Ark. 161	302+204(5)	Part of a law under which a plea in justification is made, being void for unconstitutionality, and the plea being entire, the whole is bad on demurrer.	"Is a plea which bad in part, bad in the whole?"	Pleading - Memo 549 - RMM_61969.docx	ROSS-003280860-ROSS-003280861
Appling v. Stuck, 164 N.W.2d 810	302+16	A pleading must present a legally justiciable issue; a deficiency will not be supplied by the court.	Will a deficiency in the pleadings be supplied by the court?	023775.docx	LEGALEASE-00155444-LEGALEASE-00155445

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Walker v. Archer, 2016-0171 (La. App. 4 Cir. 10/5/16), 203 So. 3d 330	307A+690	When a suit is dismissed on the basis of abandonment, the dismissal is without prejudice. La. Code Civ. Proc. Ann. art. 561.	"When a suit is dismissed on the basis of abandonment, is the dismissal without prejudice?"	Pretrial Procedure - Memo # 10214 - C - DHA_61720.docx	ROSS-003279423-ROSS-003279424
Farinelli v. Campagna, 166 Ind. App. 587	307A+563	Rule governing dismissal of actions for failure to prosecute or comply with rules is not limited in application to violation of rule of civil procedure but applies also to violations of orders of court entered pursuant to rules. Rule TR. 41(E).	Can court dismiss action when a party fails to comply with rules or when no action has been taken in case for at least sixty days?	039099.docx	LEGALEASE-00155248-LEGALEASE-00155249
Laurie v. Ezard, 595 S.W.2d 336	307A+581	Whether case is prosecuted diligently must be decided on case-by-case basis.	"Is a case that is prosecuted diligently, decided on case-by-case basis?"	039136.docx	LEGALEASE-00155241-LEGALEASE-00155242
Garwood v. Indiana Dep't of State Revenue, 998 N.E.2d 314	371+3695	Requirement for case to be original tax appeal, such that Tax Court has exclusive subject matter jurisdiction, that case be initial appeal of Department of Revenue's final determination embodies exhaustion of administrative remedies requirement; in certain instances, therefore, lack of final determination from Department, which is equivalent to failure to exhaust administrative remedies, deprives Court of subject matter jurisdiction in a case. West's A.I.C. 33-26-3-1; Tax Court Rule 13.	"When ruling on motion to dismiss for lack of subject matter jurisdiction, can a Tax Court consider a petition, motion, and any supporting affidavits or evidence?"	039349.docx	LEGALEASE-00154892-LEGALEASE-00154893
Tippins v. Cobb Cty. Parking Auth., 213 Ga. 685	308+92(1)	No greater power can be conferred upon an agent than that possessed by his principal. Code, SS 4-103, 4-201.	Can an agent be conferred with greater power than that possessed by the principal?	Principal and Agent - Memo 361 - KC_61624.docx	ROSS-003294768-ROSS-003294769
State v. Schmitz, 559 N.W.2d 701	110+1175	Improper submission of special interrogatory not relating solely to sentencing, which was to be answered if jury found defendant guilty of pattern harassment, was harmless beyond a reasonable doubt because it did not lead jury to a finding of guilt. M.S.A. S 609.749, subd. 5.	"What does the state need to prove in order to find a defendant guilty of ""pattern harassment""?"	Threats - Memo #77 - C - LB_61645.docx	ROSS-003295223-ROSS-003295224
State v. Duncan, 153 Ind. 318	3.77E+25	A finding that defendant acted with a purpose or intent to harass another is integral to a determination of harassment. N.J.S.A. 2C:33-4.	What type of finding is integral to a determination of criminal harassment?	046798.docx	LEGALEASE-00155193-LEGALEASE-00155194
Berg v. State Bd. of Agric., 919 P.2d 254	156+52(1)	Equitable estoppel, because it is based on misrepresentation of facts, is fundamentally tort theory.	Is equitable estoppel fundamentally a tort theory?	Estoppel - Memo #123 - C - CSS_62025.docx	ROSS-003280497-ROSS-003280498
Lampton v. LaHood, 94 Md. App. 461	156+52(1)	All that is needed to create equitable estoppel is: voluntary conduct or representation, reliance, and detriment.	What is needed to create an equitable estoppel?	017775.docx	LEGALEASE-00156100-LEGALEASE-00156101
Perez v. Golden Empire Transit Dist., 209 Cal. App. 4th 1228	302+34(2)	Under the principle that specific allegations in a complaint control over an inconsistent general allegation, it is possible that specific allegations will render a complaint defective when the general allegations, standing alone, might have been sufficient.	Do specific allegations in a complaint control over an inconsistent general allegation?	Pleading - Memo 561 - RMM_62369.docx	ROSS-003280618-ROSS-003280619
Argence v. Box Opportunities, 95 So. 3d 539	307A+581	Dismissal of an action on grounds of abandonment may only be made without prejudice. LSA-C.C.P. arts. 561, 2129, 2164.	Can a dismissal on the grounds of abandonment only be made without prejudice?	Pretrial Procedure - Memo # 10257 - C - SN_61762.docx	ROSS-003282262-ROSS-003282263
State v. Payne, 178 Ohio App. 3d 617	3.77E+28	Substantial incapacity sufficient to support a conviction for menacing by stalking does not mean that the victim must be hospitalized, or totally unable to care for herself; incapacity is substantial if it has a significant impact upon the victim's daily life. R.C. S 2903.211(A)(1), (D)(2)(a, b).	"When is the victim's substantial incapacity ""substantial"" for the purposes of a stalking conviction?"	046821.docx	LEGALEASE-00155992-LEGALEASE-00155993

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Whetstone v. State, 778 So. 2d 338	67+7	"Ownership," for purpose of burglary prosecution, means any possession which is rightful as against burglary and is satisfied by proof of special or temporary ownership, possession, or control. West's F.S.A. S 810.02.	What does ownership mean in the context of burglary?	Burglary - Memo 272 - RK_62275.docx	ROSS-003306169-ROSS-003306170
State v. LaGarde, 513 So. 2d 396	67+16	A "lookout" or person providing means of escape by driving a "getaway" car is a principal to a burglary. LSA-R.S. 14:24.	Does serving as a look out make a person a principal in burglary?	013090.docx	LEGALEASE-00156573-LEGALEASE-00156574
State v. McDowell, 246 Neb. 692	67+9(1)	Climbing or jumping fence does not constitute "breaking" within definition of burglary statute. Neb.Rev.St. S 28-507.	Does climbing or jumping over a fence constitute breaking?	013125.docx	LEGALEASE-00156538-LEGALEASE-00156539
Rayonier v. Polson, 400 F.2d 909	411+1	Under Washington law, standing timber owned by owner of real property on which it is growing is regarded as real property.	Can standing timber be considered as real property?	Woods and Forests - Memo 1 - KC_62517.docx	ROSS-003296560-ROSS-003296561
Finch v. Commonwealth Health Ins. Connector Auth., 459 Mass. 655	24+104	An "alien" is a person who was born outside the jurisdiction of the United States, who is subject to some foreign government, and who has not been naturalized under United States law.	Who is an alien?	Aliens_ Immigration an_1F2FMjjSl_fh24r6kBr_lkYykSqW6QrrO.docx	ROSS-000000278-ROSS-000000279
Critcher v. Ballard, 180 N.C. 111	83E+525	Under Negotiable Instruments Act, SS 2178, 2198, 2206, 2212, an indorsement written on a note payable to order, but not signed by the payee, or by any one in his behalf, does not make the transferee of the note a holder in due course, but gives him only an equitable title thereto.	Does a transferee without indorsement acquire only equitable title?	009091.docx	LEGALEASE-00157151-LEGALEASE-00157152
Gayoso Sav. Inst. v. Fellows, 46 Tenn. 467	38+57	When a bond, bill, note or like evidence of debt is assigned, and is transferred by actual manual delivery to the assignee, whether the legal title in the instrument passed by the assignment or not, no notice is required to be given to the debtor, of the assignment.	Is notice to the debtor required for the transfer of title to negotiable instruments?	009100.docx	LEGALEASE-00157161-LEGALEASE-00157162
Pennsylvania Pub. Sch. Employees' Ret. Sys. v. Morgan Stanley & Co., 772 F.3d 111	83E+481	Under New York law, specific incantations of "assignment" are unnecessary to perfect a transfer of a note.	Are specific incantations necessary to perfect a transfer?	Bills and Notes -Memo 1239 - JK_62553.docx	ROSS-003285758-ROSS-003285759
Barrett v. Dodge, 16 R.I. 740	8.30E+10	If no particular place of payment is specified in a note, the law of the place of contract governs as to the obligation and duty imposed on the maker.	Which law governs a note?	010931.docx	LEGALEASE-00157942-LEGALEASE-00157943
In re King Mem'l Hosp., 19 B.R. 885	156+52(1)	Estoppel means nothing more than application of rules of fair play.	Does estoppel mean nothing more than the application of fair play?	017805.docx	LEGALEASE-00156733-LEGALEASE-00156734
Sun Oil Co. (Delaware) v. Madeley, 626 S.W.2d 726	156+52(1)	Estoppel is a defensive theory and does not create a contract right that does not otherwise exist.	Does estoppel create a contract that does not otherwise exist?	Estoppel - Memo #146 - C - CSS_62347.docx	ROSS-003293218-ROSS-003293219
Missouri Pac. R. Co. v. Am. Statesman, 552 S.W.2d 99	156+52(1)	The function of waiver or estoppel is to preserve rights, not to create independent causes of action.	Is the function of estoppel to preserve rights?	Estoppel - Memo #148 - C - CSS_62349.docx	ROSS-003296272-ROSS-003296273
Bd. of Cty. Comm'rs of Summit Cty. v. DeLozier, 917 P.2d 714	156+52(5)	While doctrine of promissory estoppel is applicable to promises, doctrine of equitable estoppel is applicable to misstatements of fact.	Is equitable estoppel applicable to misstatements of fact?	017884.docx	LEGALEASE-00157770-LEGALEASE-00157771
Smith v. Melson, 135 Ariz. 134	315+609	"Exchange" under modern common-law definition is reciprocal transfer of property for other property of value, rather than for money consideration. A.R.S. SS 37-104, 37-601 to 37-611.	"In an exchange of property, is the consideration received for the property given?"	018289.docx	LEGALEASE-00157399-LEGALEASE-00157400

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Allin v. Motorists' All. of Am., 234 Ky. 714	217+1000	One cannot change nature of insurance business by declaring in contract that it is not insurance.	Will the nature of insurance business change if it is expressly declared in the contract that it is not insurance?	019546.docx	LEGALEASE-00157385-LEGALEASE-00157386
Telford v. Smith Cty., Texas, 155 Idaho 497	307A+690	A dismissal for lack of subject matter jurisdiction cannot be a dismissal with prejudice. Rules Civ.Proc., Rule 41(b).	Can a dismissal for lack of subject matter jurisdiction be a dismissal with prejudice?	Pretrial Procedure - Memo # 10484 - C - SHB_62419.docx	ROSS-003281749
Comprehensive Pain Mgmt. v. Blakely, 312 Ga. App. 721	198H+805	If the required expert affidavit is not filed with the complaint in a medical malpractice action, the complaint is subject to dismissal for failure to state a claim. West's Ga.Code Ann. SS 9-11-9.1(a), 9-11-12(b)(6).	Is a dismissal for failure to state a claim a dismissal on the merits and is with prejudice?	Pretrial Procedure - Memo # 10535 - C - SJ_62435.docx	ROSS-003291859-ROSS-003291860
Ex parte W.L.K., 175 So. 3d 652	250+42	Probate court order that putative father had not abandoned child in six months prior to her birth and thus had not impliedly consented to child's adoption was interlocutory, not final judgment, in proceedings on prospective adoptive parents' petition for adoption, for purposes of obtaining writ of mandamus, where it did not resolve entire adoption proceeding. (Per curiam opinion, with two Judges concurring and three Judges concurring in result.) Code 1975, S 26-10A-9(a)(1); Rules App.Proc., Rule 21(a)(3).	Do interlocutory orders become unenforceable upon a final judgment of dismissal?	025134.docx	LEGALEASE-00156985-LEGALEASE-00156986
First Fed. Bank v. Aldridge, 230 N.C. App. 187	307A+695	Trial court's failure to sua sponte offer bank an opportunity to amend its defective complaint before dismissing its action against borrower for failure to state a claim with prejudice did not constitute an abuse of discretion, where bank did not move that the dismissal be without prejudice, or make any motion to amend its complaint. Rules Civ.Proc., Rule 12(b)(6), West's N.C.G.S.A. S 1A-1.	Is it the burden of the party whose claim is being dismissed to convince the court that he deserves a second chance?	025156.docx	LEGALEASE-00157167-LEGALEASE-00157168
Falls Cty. v. Perkins & Cullum, 798 S.W.2d 868	102+208	A request for attorney fees made in a Declaratory Judgments Act case is a claim for "affirmative relief" authorizing a party to be heard under rule providing that dismissal pursuant to nonsuit rule could not prejudice the right of a party to be heard on a pending claim for affirmative relief. Vernon's Ann.Texas Rules Civ.Proc., Rule 162.	Is a request for attorney fees a claim for affirmative relief?	025162.docx	LEGALEASE-00157189-LEGALEASE-00157190
S.C.G. v. J.G.Y., 794 So. 2d 399	307A+693.1	Rule governing effect of involuntary dismissal is not limited to dismissals sought by the defendant. Rules Civ.Proc., Rule 41(b).	Is the rule governing an effect of an involuntary dismissal not limited to dismissals sought by the defendant?	025197.docx	LEGALEASE-00157271-LEGALEASE-00157272
Hodge v. Johnson, 852 N.E.2d 650	307A+517.1	An open and voluntary renunciation by a plaintiff of his suit, a "retraxit," operates as a dismissal with prejudice.	Does a dismissal with prejudice operate as a retraxit under law?	025262.docx	LEGALEASE-00156879-LEGALEASE-00156880
Edgar Cty. Bank & Tr. Co. v. Paris Hosp., 57 Ill. 2d 298	307A+693.1	The dismissal of one defendant, with prejudice, does not bar an action against other defendants who might be held jointly or severally liable.	"Once having dismissed an action, does the trial court have no jurisdiction to grant affirmative relief to the parties based on their subsequent petitions for affirmative relief?"	025267.docx	LEGALEASE-00156891-LEGALEASE-00156892
Watson v. Gen. Motors Corp., 479 S.W.2d 104	307A+693.1	Until interlocutory judgment of dismissal is set aside, it is valid and binding.	"Until interlocutory judgment of dismissal is set aside, is it valid and binding?"	025833.docx	LEGALEASE-00157662-LEGALEASE-00157663
Frasier v. Palmetto Homes of Florence, 323 S.C. 240	308+99	Agency may not be established solely by declarations and conduct of alleged agent.	Can an agency be established solely by the declarations of an agent?	Principal and Agent - Memo 448 - RK_63568.docx	ROSS-003294622-ROSS-003294623

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Whitley v. Taylor Bean & Whitacker Mortg. Corp., 607 F. Supp. 2d 885	308+1	The parties must consent to a principal-agent relationship, which may be created by conduct or contract.	Can the principal-agent relationship be created by contract?	Principal and Agent - Memo 454 - RK_63574.docx	ROSS-003292587-ROSS-003292588
Robinson v. Quicken Loans Inc., 988 F. Supp. 2d 615	308+19	The burden of proving an agency relationship under West Virginia law rests upon him who alleges the existence of the agency; however, once a prima facie showing of the agency relationship has been made, a principal denying agency must show that the principal neither controlled, nor had the right to control, the alleged agent's work.	Whom does the burden of proving agency rest upon?	041904.docx	LEGALEASE-00157060-LEGALEASE-00157061
Desai v. ADT Sec. Sys., 78 F. Supp. 3d 896	308+1	Under Colorado law, an "agent" is generally one who acts for, or in place of, another i.e., the principal, or is entrusted with the business of another.	Who is an agent?	Principal and Agent - Memo 565-SB_63581.docx	ROSS-003296199-ROSS-003296200
State v. Worl, 74 Wash. App. 605	350H+89	"Malicious harassment" is separate crime, and is not merely sentence enhancer. West's RCWA 9A.36.080(1).	Is malicious harassment a separate crime or a sentence enhancer?	"Threats, Stalking and Harassment - Memo #187 - C - LB_64736.docx"	ROSS-003281770-ROSS-003281771
In re Boyer, 65 Ind. App. 408	413+101	Workmen's Compensation Act includes all employV© in industrial pursuits not expressly excepted therein.	Does the Workmen's Compensation Act include its benefits all employees in industrial pursuits?	047704.docx	LEGALEASE-00157460-LEGALEASE-00157461
Dryolin Corp. v. Zwicke, 17 N.Y.S.2d 974	83E+481	Generally motives influencing the assignment of a note, or the consideration, do not affect validity of assignment as against debtor.	Does the motive influencing an assignment affect the validity of an assignment?	009299.docx	LEGALEASE-00158226-LEGALEASE-00158227
Packer v. Roberts, for Use of Wetherell, 40 Ill. App. 613	83E+481	The legal title to a note cannot be transferred by assignment by a separate instrument.	Can a legal title to a note be transferred by assignment by a separate instrument?	Bills and Notes-Memo 1288-PR_63614.docx	ROSS-003294000-ROSS-003294001
OT Indus. v. OT-tehdas Oy Santasalo-Sohlberg Ab, 346 N.W.2d 162	29T+264	A minimum volume requirement is not a disguised franchise fee where the required purchases are made at bona fide wholesale prices for valid business reasons. M.S.A. S 80C.01, subd. 9(a).	What is a franchise fee?	Franchises - Memo 1 - ANG_65681.docx	ROSS-003279794-ROSS-003279795
El Dorado Cty. v. Davison, 30 Cal. 520	200+158	Toll gate erected on public highway may be abated as nuisance.	Can toll gate erected on public highway be abated as nuisance?	019223.docx	LEGALEASE-00158934-LEGALEASE-00158935
Spurck v. Leonard, 9 Ill.App. 174	289+956	After dissolution of a firm, authority of making new contracts is completely revoked.	Does the dissolution of a partnership operate as a revocation of all authority to make new contracts?	022621.docx	LEGALEASE-00158661-LEGALEASE-00158662
Heath v. Waters, 40 Mich. 457	289+572	The sickness of a partner is one of the risks incidental to partnership business, and does not give another partner any claim for personal services in conducting the entire business, if the partnership articles do not provide for any.	Is the sickness or inability of a partner one of the risks incidental to the partnership?	Partnership - Memo 531 - GP_64071.docx	ROSS-003299183
Fiandaca v. Niehaus, 570 S.W.2d 714	307A+561.1	Only if affirmative defense is irrefutably established by petition can petition be dismissed on such ground.	Can a petition be dismissed only if affirmative defense is irrefutably established by petition?	Pretrial Procedure - Memo # 10788 - C - NS_63655.docx	ROSS-003280914-ROSS-003280915
Carver v. Morrow, 213 S.C. 199	308+92(3)	Authorized acts of agents are acts of principal, and agent's exercise of authority is an execution of principal's continuing will.	Is an agents exercise of authority regarded as execution of the principals continuing will?	041681.docx	LEGALEASE-00158910-LEGALEASE-00158911
Carver v. Morrow, 213 S.C. 199	308+43(1)	Generally, when not coupled with an interest, agency terminates on death of principal.	Does an agency terminate upon the death of the principal when not coupled with an interest?	041683.docx	LEGALEASE-00158912-LEGALEASE-00158913

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
First Jackson Sec. Corp. v. B. F. Goodrich Co., 253 Miss. 519	308+3(1)	"Agent" is one who stands in shoes of his principal, and his principal's alter ego; word "employee" is not synonymous with "agent".	Is employee synonymous with agent?	Principal and Agent - Memo 401 - RK_63956.docx	ROSS-003307619-ROSS-003307620
Dakota Provisions v. Hillshire Brands Co., 226 F. Supp. 3d 945	308+2	Agency is a creature of state law and, in South Dakota, is governed by both statutory and common law.	Is an agency a creature of state law?	041740.docx	LEGALEASE-00158989-LEGALEASE-00158990
Chou v. Univ. of Chicago, 254 F.3d 1347	46H+518	A fiduciary duty in Illinois may arise in one of two ways: it automatically arises from particular relationships, such as attorney-client and principal-agent, as a matter of law; and it may also arise from the special circumstances of the parties' relationship, such as when one party justifiably places trust in another so that the latter gains superiority and influence over the former.	Can a fiduciary relationship arise from attorney-client relationships?	Principal and Agent - Memo 484 - RK_63969.docx	ROSS-003309656-ROSS-003309657
McInness v. Wilson Printing Co., 258 Ill. App. 161	413+101	The extrahazardous employments specified in Workmen's Compensation Act, have reference only to right to compensation under act, and do not fix standard for any other purpose. S.H.A. ch. 48, S 138 et seq.	Does the compensation act define what employment shall be deemed extra hazardous?	Workers' Compensation - Memo #621 - C - ANC_63842.docx	ROSS-003293327-ROSS-003293328
Banca Italiana Di Sconto v. Columbia Counter Co., 252 Mass. 552	8.30E+11	Maker ordinarily bound under laws of place where note payable.	Is the maker of a note bound by the law of the place where the note is payable?	Bills and Notes - Memo 1393 - JK_64834.docx	ROSS-003322114-ROSS-003322115
Hill v. Bartlette, 181 S.W.3d 541	156+52(4)	Equitable estoppel arises only in situations where one party has refused to do what he or she has a duty to do.	Can estoppel arise only when a party has refused to do that which he or she has a duty to do?	017868.docx	LEGALEASE-00159329-LEGALEASE-00159330
Gen. Tel. Co. of Nw. v. City of Bothell, 105 Wash. 2d 579	183+2	Power to grant franchises is a sovereign power resting in state, although state may delegate such power to cities.	Is power to grant a franchise a sovereign power?	018484.docx	LEGALEASE-00159780-LEGALEASE-00159782
Porto Rico Ry., Light & Power Co. v. Colom, 106 F.2d 345	183+4	Public utility franchises, which by their terms are not exclusive or do not grant a monopoly in the franchise territory, do not entitle their holders to be free from competition.	Does holder of nonexclusive franchise get a monopoly?	018506.docx	LEGALEASE-00160024-LEGALEASE-00160025
Syracuse Rural Fire Dist. v. Pletan, 254 Neb. 393	183+1	"Franchise" is property or a vested right, protected by the Constitution that, if accepted and acted on, does create a contract.	Is a franchise a vested right?	Franchises - Memo 16 - KNR_65688.docx	ROSS-003295049-ROSS-003295050
Estate of Handy v. R.L. Vallee, 993 F. Supp. 236	29T+270(2)	Under Petroleum Marketing Practices Act (PMPA), franchise must involve direct contractual relationship between parties. Petroleum Marketing Practices Act, S 101 et seq., 15 U.S.C.A. S 2801 et seq.	Does a franchise involve a contractual relationship between parties?	Franchises - Memo 18 - KNR_65690.docx	ROSS-003298324-ROSS-003298325
Han v. Mobil Oil Corp., 73 F.3d 872	29T+270(2)	Under Petroleum Marketing Practices Act (PMPA), "franchise relationship" is entity separate from, but defined by, "franchise," or contractual arrangement existing between the parties. Petroleum Marketing Practices Act, S 101(2), 15 U.S.C.A. S 2801(2).	Does a franchise involve a contractual relationship between parties?	018552.docx	LEGALEASE-00159463-LEGALEASE-00159464
Shearson/Am. Exp. v. First Cont'l Bank & Tr. Co., 579 F. Supp. 1305	309+59	Under Kansas law, surety bond is treated as contract for insurance, and bond is subject to same rules of construction that apply to insurance contracts.	Are surety bonds considered as insurance policy?	Insurance - Memo 53 - SNJ.docx	LEGALEASE-00049465-LEGALEASE-00049466
Shafer v. Randolph, 99 Pa. 250	289+472	One who holds himself out or knowingly permits himself to be held out as a partner, on the faith of which others give credit to the firm, will be held liable as such.	"Can there be instances where a person is not a partner, but holds himself out as a partner, and is considered to be one?"	022550.docx	LEGALEASE-00160246-LEGALEASE-00160247

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Crouch v. Bowman, 22 Tenn. 209	289+639	Every partner is the agent of the partnership, may transact business in its name, and in all simple contracts relating to the business of the partnership he may bind the members of the firm; but in order to do this he must act in the name of the firm and in signing notes, bills, &c. he must subscribe the name or style by which they are known as a firm, and in which they do business.	"Does the act by a partner have to be done in the name of the firm, in order to bind the firm?"	Partnership - Memo 496 - SB_64858.docx	ROSS-003292293-ROSS-003292294
Capelle v. Makowski, 93 Misc. 2d 436	371+2100	Fact that tax is more burdensome to some than others will not invalidate tax which legislature has determined to be necessary, nor will the fact that the tax imposed is a regressive one.	"What is a ""regressive tax""?"	046189.docx	LEGALEASE-00159736-LEGALEASE-00159737
City of S. San Francisco v. Bd. of Equalization, 181 Cal. Rptr. 3d 656	371+3602	Under California Sales and Use Tax Law, in essence, a "sales tax" is a tax on the freedom of purchase and a "use tax" is a tax on the enjoyment of that which was purchased. Cal. Rev. & Tax. Code S 6001 et seq.	"Is a ""sales tax"" a tax on the freedom of purchase, while a ""use tax"" is a tax on the enjoyment of that which was purchased?"	046217.docx	LEGALEASE-00159809-LEGALEASE-00159810
Xerox Corp. v. Cty. of Orange, 66 Cal. App. 3d 746	371+3602	Sales tax law imposes a tax at a fixed rate upon the gross receipts and not on the individual sales, and fact that law authorizes a bookkeeping method to compute the amount of tax separately from the sales price does not change the character of the tax. West's Ann.Rev. & Tax.Code, S 6051.	Does the sales tax law imposes a tax at a fixed rate upon the gross receipts?	046290.docx	LEGALEASE-00160158-LEGALEASE-00160159
Headwaters v. Forsgren, 219 F. Supp. 2d 1121	411+8	Notwithstanding absence of reference that proposed sale of timber from national forest land would comply with forest management plan developed pursuant to National Forest Management Act (NFMA), the record showed that Forest Service considered issue of soil compaction in evaluating proposed sale, decision to use helicopter to remove harvested logs and to use existing roads and landings mitigated those concerns, and finding in decision notice indicating that sale was consistent with forest plan contained implicit finding that sale's soil compaction requirements were consistent with forest plan; therefore, Forest Service complied with NFMA with respect to soil compaction requirements in approving sale. Forest and Rangeland Renewable Resources Planning Act of 1974, S 2 et seq., as amended, 16 U.S.C.A. S 1600 et seq.	What are the requirements imposed by the Forest Act?	047661.docx	LEGALEASE-00159827-LEGALEASE-00159828
Kendall v. State, 429 Md. 476	413+103	The Workmen's Compensation Act applies to the State only when the State is engaged in some of the enterprises declared by Section 3 of that Act, S.H.A. ch. 48, S 139, to be extrahazardous.	Does a state employee come under the Workmens Compensation Act if the employee is not engaged in one of the extra-hazardous occupations enumerated in Section 3 of the Act?	Workers' Compensation - Memo 666 - C - ANC_64586.docx	ROSS-003294064-ROSS-003294065
Clark v. Searight, 135 Pa. 173	8.30E+10	A promissory note not made payable elsewhere is payable at the place where it was made, and bears interest according to the law of the latter place.	Under what law is interest allowed when it is made payable at a particular place?	Bills and Notes -Memo 1377-JK_66279.docx	ROSS-003294416-ROSS-003294417
Clark v. Searight, 135 Pa. 173	8.30E+10	A promissory note not made payable elsewhere is payable at the place where it was made, and bears interest according to the law of the latter place.	According to what law is interest allowed on a promissory note?	Bills and Notes -Memo 1386- JK_66286.docx	ROSS-003318996-ROSS-003318997

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
City of Miamisburg v. Smith, 5 Ohio App. 3d 109	324+10	Trial court did not abuse its discretion in sentencing defendant to six months in jail and a \$250 fine on each of three counts of receiving stolen property under \$150, suspending 120 days' incarceration on each count and placing defendant on a probation of one year, in that sentence imposed was well within parameters of criminal statute and statute establishing criteria for sentencing misdemeanants. R.C. SS 2929.12, 2929.22.	Under what circumstances would a court abuse its discretion in imposing a sentence?	Bribery - Memo 1067 - C - ML_65552.docx	ROSS-003279404
Dayner v. Archdiocese of Hartford, , 2009 WL 865740	92+1368(1)	The ministerial exception in the First Amendment did not bar the court from hearing the case. The former principal of a religious school brought suit against the school after she was terminated, allegedly, in retaliation of an action she took. The school asserted that the ministerial exception to judicial authority precluded the court from adjudicating employment disputes between religious institutions and their religious leaders. The disputes in this case did not intrude into purely religious matters or issues of church governance. U.S.C.A. Const. Amend. 1 .	Does the Free Exercise Clause bar court adjudication of such disputes where the religious affiliation of the institution or business is not pervasive or the duties of the employee?	Education - Memo 334 - C - KS.docx	LEGALEASE-00050548- LEGALEASE-00050549
Conseco Fin. Servicing Corp. v. Wilder, 47 S.W.3d 335	156+52.10(2)	A waiver may be either express or implied, although waiver will not be inferred lightly.	May a waiver either be express or implied?	Estoppel - Memo 246 - C - CSS_65222.docx	ROSS-003293359-ROSS-003293360
Potter v. Moran, 61 Mich. 60	200+177	Racing along a highway is itself such an act of negligence as to make the racing parties responsible for a collision caused thereby.	Is racing an act of negligence in itself?	018788.docx	LEGALEASE-00161637- LEGALEASE-00161638
Town of Hustisford v. Knuth, 190 Wis. 495	200+86	Abutting owners may make such reasonable use of fee to highway as does not interfere with public right.	Who does the fee to a highway remain with?	018835.docx	LEGALEASE-00161759- LEGALEASE-00161760
Lower Nueces River Water Supply Dist. v. Live Oak Cty., 312 S.W.2d 696	64+7	Roads and bridges of state, although constructed by county, are property of state and not county.	Are the roads and bridges of the State constructed by a County the property of the State?	Highways - Memo 462 - RK.docx	LEGALEASE-00050778- LEGALEASE-00050779
Am. Ins. Co. v. Saulnier, 242 F. Supp. 257	217+1001	Function of policy is to divide economic duty to make reparation to injured party, not to keep the peace.	What is the function of an insurance policy offered by an insurance company?	019528.docx	LEGALEASE-00161573- LEGALEASE-00161574
Madrid v. Alpine Mountain Corp., 2011 PA Super 117	307A+697	Plaintiffs' ignorance of the procedural rule that required a timely filing of a petition to open a judgment non pros did not constitute a reasonable explanation for their failure to comply, and thus, trial court's denial of plaintiffs' request to open judgment non pros did not constitute an abuse of discretion. Rules Civ.Proc., Rule 3051, 42 Pa.C.S.A.	What are factors which must be present in order to open a non pros judgment?	040078.docx	LEGALEASE-00160733- LEGALEASE-00160734
Barragan v. Banco BCH, 188 Cal. App. 3d 283	307A+695	Motion to dismiss may be substituted for demurrer as first pleading, and if denied, it is treated as demurrer overruled without leave to amend.	Can a motion to dismiss be substituted for demurrer as a first pleading?	040332.docx	LEGALEASE-00161098- LEGALEASE-00161099
Charlie Brown Const. Co. v. Leisure Sports Inc., 740 P.2d 1368	307A+587	Trial court did not abuse its discretion by dismissing suit with prejudice on the merits for failure to prosecute; trial court provided plaintiffs an opportunity to be heard and to do justice, and plaintiffs nevertheless abused their opportunity through dilatory conduct. Rules Civ.Proc., Rule 41(b).	Is the dismissal for failure to prosecute a decision within the broad discretion of the trial court?	Pretrial Procedure - Memo 11720 - C - NE_65437.docx	ROSS-003294316-ROSS-003294317

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Citizens' Sav. & Loan Ass'n v. City of Topeka, 87 U.S. 655	371+2003	The power to tax is the strongest and most pervading of all powers of government reaching directly or indirectly to all classes of the people.	What is the most pervading power of government?	046310.docx	LEGALEASE-00160723-LEGALEASE-00160724
Hampton v. Marvin, 105 N.H. 34	371+2003	Power of taxation is attribute of sovereignty belonging to people and, under Constitution, is vested in Legislature. Const. pt. 2, art. 2.	Is the power of taxation vested in the legislature?	Taxation - Memo 1155 - C - JL_65488.docx	ROSS-003292523-ROSS-003292524
Brown v. State of La., 383 U.S. 131	3.77E+10	When a communication of a threat is done to terrorize another, the crime of making terroristic threats is complete. West's Ga.Code Ann. S 16-11-37(a).	When is the crime of making terroristic threats complete?	"Threats, Stalking and Harassment - Memo 201 - C - LB_65501.docx"	ROSS-003280064
Guernsey v. Imperial Bank of Canada, 188 F. 300	8.30E+14	The manner of giving and sufficiency of notice of dishonor is governed by the laws of the place where the note is payable.	Which law governs the manner of giving notice?	Bills and Notes - Memo 1323 - RK_66226.docx	ROSS-003283221-ROSS-003283222
Wade v. Darring, 511 S.W.2d 320	8.30E+10	Where note under which endorsers brought action against makers was made payable in North Carolina, laws of North Carolina governed subsequent liability of the parties.	Which law governs the substantive liability of the parties?	Bills and Notes - Memo 1327 - RK_66230.docx	ROSS-003306992
Thorp, Smith & Hanchett v. Craig, 10 Iowa 461	83E+675	The law of the place where a bill of exchange is payable governs as to the allowance of days of grace.	Which law governs the days of grace upon the check?	009200.docx	LEGALEASE-00162656-LEGALEASE-00162657
Bryant v. United States, 565 F.2d 650	141E+802	In New Mexico, school authorities have duty to exercise ordinary care in protecting and supervising students while they are on school grounds, but do not have responsibility for protective supervision at all places and under all circumstances.	Do school authorities have a responsibility for supervision at all places and all circumstances?	017282.docx	LEGALEASE-00162148-LEGALEASE-00162149
Hahn v. Oregon Physicians Serv., 689 F.2d 840	217+1712	Insurance is a contractual relationship which exists when an insurer, for consideration, agrees to reimburse an insured for loss cause by designated contingencies; the underwriting and subsequent spreading of the policyholder's risk is the primary element of the insurance contract.	What are the primary elements of an insurance contract?	019649.docx	LEGALEASE-00162130-LEGALEASE-00162131
Nat'l City Mortg. Co. v. Navarro, 220 F.R.D. 102	170A+825	Motions to dismiss and for summary judgment do not qualify as "responsive pleadings" within meaning of civil rule permitting amendment of pleading once as matter of course at any time before responsive pleading is served. Fed.Rules Civ.Proc.Rule 15(a), 28 U.S.C.A.	Is a motion to dismiss a responsive pleading or a pleading under the rules?	040144.docx	LEGALEASE-00162138-LEGALEASE-00162139
Rizzo v. City of Philadelphia, 668 A.2d 236	268+956(1)	Crucial factor in determining whether municipal charge for services constitutes valid regulatory fee, rather than unlawful tax, is whether charge is intended to cover cost of administering regulatory scheme or providing service.	Are taxes distinguishable from license fees because they are revenue-producing measures authorized under the taxing power of government?	Taxation - Memo 1021 - C - JL_66473.docx	ROSS-003281643-ROSS-003281644
State ex rel. Agard v. Riederer, 448 S.W.2d 577	371+2003	Power to tax is an extraordinary one and must be based on specific or clearly implied authority. V.A.M.S.Const. art. 10, S 1.	Under what condition can the power to tax be based on implication?	046350.docx	LEGALEASE-00161980-LEGALEASE-00161981
Ray v. Bd. of Comm'rs of Doniphan Cty., 173 Kan. 859	371+2801	The entire matter of taxation, including levy and collection of taxes, does not exist apart from statute.	Is the entire matter of taxation statutory?	046356.docx	LEGALEASE-00161995-LEGALEASE-00161996

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Miller v. City of Fairhope, 855 So. 2d 1139	3.77E+24	"Fighting words," for purposes of harassment statute, are those words which have likelihood of causing violent response by person to whom they are addressed; they are words that, by their very utterance, provoke swift physical retaliation and incite immediate breach of peace. Code 1975, S 13A-11-8(a).	What are fighting words for the purposes of the harassment statute?	046957.docx	LEGALEASE-00162160- LEGALEASE-00162161
Haret v. State Acc. Ins. Fund Corp., 72 Or. App. 668	413+1042.1	Workers' Compensation Law is complete statement of parties' rights and obligations: Act provides for penalty and attorney fees which are exclusive consequences. ORS 656.018, 656.262(10), 656.268(4).	Does workers compensation provide for penalty and attorney fees?	048620.docx	LEGALEASE-00162400- LEGALEASE-00162401
State of Ohio ex rel. Squire v. Eubank, 295 Mich. 230	8.30E+10	In case of a note, place of contracting is where note is first delivered for value.	Is the place where the note is first delivered for value the place of contracting?	Bills and Notes - Memo 1366 - RK_66267.docx	ROSS-003279438-ROSS- 003279439
Kelly v. Cent. Bank & Tr. Co. of Denver, 794 P.2d 1037	172H+617	When a depository bank's customer and the check payee are not the same person, a depository bank cannot supply a missing endorsement of the payee, and payment of such check proceeds to its depositor subjects the depository bank to liability for conversion. C.R.S. 4-1-201(20), 4-3-110(1), 4-3-201(3), 4-3-201 comment, 4-3-202(1), 4-3-307(2), 4-3-307 comment, 4-3-419(1)(c), 4-4-205, 4-4-205(1).	Can the depository bank supply a missing endorsement?	009968.docx	LEGALEASE-00162833- LEGALEASE-00162834
Adams v. United States, 117 Fed. Cl. 628	34+101.1	Interpretive doubt regarding the reading of a statute pertaining to veterans is to be resolved in the veteran's favor.	Are statutes pertaining veterans to be construed in the veterans' favor?	008811.docx	LEGALEASE-00163897- LEGALEASE-00163899
Adams v. United States, 117 Fed. Cl. 628	34+101.1	Interpretive doubt regarding the reading of a statute pertaining to veterans is to be resolved in the veteran's favor.	Are statutes pertaining veterans to be construed in the veterans' favor?	Armed Services - Memo 341 - RK_1.docx	LEGALEASE-00052648- LEGALEASE-00052650
Winslow v. United States, 147 F.2d 157	241+72(1)	The Veterans' Act provision that infants shall have three years in which to bring suit after removal of their disabilities and war risk policies do not confer two rights, but infant beneficiary's interest in policy is derived from that of the insured veteran. World War Veterans' Act SS 19, 305, as amended, 38 U.S.C.A. SS 784(a-h), 759.	Is a beneficiary's interest in a policy derivative from that of the veteran?	008844.docx	LEGALEASE-00163910- LEGALEASE-00163911
Summe v. Kenton Cty. Clerk's Office, 626 F. Supp. 2d 680	78+1376(10)	Even if the dismissal of a chief deputy to a county clerk was not subject to political patronage dismissal, the clerk would have been entitled to qualified immunity in his individual capacity on the chief deputy's S 1983 claim of a First Amendment violation, as the law was not clearly established as to dismissals of such number two positions. U.S.C.A. Const.Amend. 1; 42 U.S.C.A. S 1983.	Are patronage dismissals of deputy court clerks unconstitutional?	013555.docx	LEGALEASE-00164110- LEGALEASE-00164111
Alken v. Lerner, 485 F. Supp. 871	83H+1	Regulation of the commodity futures industry is essentially a federal concern. Commodity Exchange Act, S 1 et seq. as amended 7 U.S.C.A. S 1 et seq.	Is the regulation of the commodities futures industry a federal concern?	013642.docx	LEGALEASE-00164164- LEGALEASE-00164165
Comm'r of IRS v. Estate of Sanders, 834 F.3d 1269	135+2	While a person may have only one domicile at a time, a person may have multiple residences simultaneously.	"Can an individual have multiple residences, but only one domicile as a basis for personal jurisdiction?"	014548.docx	LEGALEASE-00164174- LEGALEASE-00164175
In re Murrin, 461 B.R. 763	135+2	"Domicile" and "residence" are not synonymous; person can reside in one place while being domiciled in a different place.	Can a person reside in one place while being domiciled in a different place?	Domicile - Memo 46 - C - AJ_67125.docx	ROSS-003295285-ROSS- 003295286

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State v. Gaines, 2003 WL 22966190	135H+97	Allowing retrial of murder defendant following mistrial did not constitute plain error; although defendant contended double jeopardy clause barred retrial, trial court's finding that mistrial was warranted based on references to defendant's criminal record did not require conclusion that state goaded defendant into requesting mistrial and, on retrial, state assured court that witnesses were instructed not to mention defendant's criminal history. U.S.C.A. Const.Amend. 5.	Are there no double jeopardy considerations when a mistrial is declared?	Double Jeopardy - Memo 355 - C - SHS_66633.docx	ROSS-003282594-ROSS-003282595
Hedged Inv. Partners v. Norwest Bank Minnesota, N.A., 578 N.W.2d 765	156+52.10(3)	Course-of-conduct waiver is based on the theory of estoppel and requires detrimental reliance.	Is course-of-conduct waiver based on the theory of estoppel?	Estoppel - Memo 282 - C - CSS_66554.docx	ROSS-003283279-ROSS-003283280
In re Farley, 237 B.R. 702	195+5	Under Ohio law, there can be no liability upon part of guarantor if there is no valid obligation against principal debtor.	Is a guarantor liable to pay a debt which a principal debtor is not bound to pay?	018622.docx	LEGALEASE-00163621-LEGALEASE-00163622
Dye v. State, 127 Miss. 492	203+535	An instruction for the state defining "malice aforethought" as "the felonious design or purpose to effect the death of the person killed" is erroneous, for in this state "malice aforethought" is equivalent to "premeditated design," or "deliberate design."	Is malice aforethought equivalent to premeditated design or deliberate design?	Homicide - Memo 184 - RK_66927.docx	ROSS-003285138
Com. v. O'Neil, 67 Mass. App. Ct. 284	3.77E+06	Statute creating offense of criminal harassment was intended to address stalking behaviors, and to protect victims of harassment before that behavior escalates into more dangerous conduct. M.G.L.A. c. 265, S 43A(a).	What was the statute creating the offense of criminal harassment intended to provide victims with a remedy for?	046993.docx	LEGALEASE-00163399-LEGALEASE-00163400
Bamberger Rosenheim, Ltd., (Israel) v. OA Dev., (United States), 862 F.3d 1284	25T+201	Disputes over the interpretation of forum selection clauses in arbitration agreements raise presumptively arbitrable procedural questions intended for arbitrators, not courts, to decide; such clauses determine where an arbitration is conducted, not whether there is a contractual duty to arbitrate at all.	Do courts have the jurisdiction to enforce a forum selection clause in a valid arbitration agreement that has been disregarded by the arbitrators?	Alternative Dispute Resolution - Memo 888 - RK.docx	LEGALEASE-00054024-LEGALEASE-00054026
Brown v. Mut. of New York Life Ins. Co., 213 F. Supp. 2d 667	135+2	Domicile, more than where the party resides, is the place a person calls home; thus, when determining a party's domicile, a court looks to such factors as where the person resides, where he works, goes to school, pays his taxes, is registered to vote, the place of his drivers license, and location of family, among others.	"Is a domicile, more than where the party resides, the place a person calls home?"	Domicile - Memo 72 - C - NSY_67151.docx	ROSS-003310577-ROSS-003310578
State v. Marr, 673 A.2d 452	135H+59	In nonjury case jeopardy does not attach until evidence is presented on issue of guilt or innocence. U.S.C.A. Const.Amend. 6.	Does a jeopardy attach once evidence has been presented?	Double Jeopardy - Memo 992 - C - PC_67723.docx	ROSS-003294566-ROSS-003294567
Robbins v. Magee, 76 Ind. 381	156+54	A party acting in excusable ignorance of a material fact is not thereby estopped.	Is a person who acts in excusable ignorance of a material fact estopped?	Estoppel - Memo 322 - C - CSS_67204.docx	ROSS-003278935-ROSS-003278936
Denton v. Moser, 241 N.W.2d 28	233+893	A farm tenancy may be terminated by agreement of the parties, by proof of estoppel or by waiver; in such an event, statute requiring written notice of termination has no application. I.C.A. SS 562.6, 562.7.	Can farm tenancies be terminated by estoppel?	021034.docx	LEGALEASE-00164957-LEGALEASE-00164958
Midway Motor Lodge of Brookfield v. Hartford Ins. Grp., 226 Wis. 2d 23	302+71	Ad damnum clause is not a substantive part of the complaint; it is nothing more than an "asking price."	Is the ad damnum clause a substantive part of the complaint?	023976.docx	LEGALEASE-00164793-LEGALEASE-00164794

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In re Matter of Swagerty, 383 P.3d 454	135H+1	"Double jeopardy" is a constitutional limitation on the power of the court to place a person in jeopardy multiple times for the same offense. U.S. Const. Amend. 5.	What is the definition of Double Jeopardy?	041030.docx	LEGALEASE-00164397- LEGALEASE-00164398
Ex parte Anthony, 931 S.W.2d 664	135H+5.1	Like Federal Constitution, double jeopardy clause of State Constitution protects against multiple punishments for same offense. U.S.C.A. Const.Amend. 14; Vernon's Ann.Texas Const. Art. 1, S 14.	What are the constitutional protections double jeopardy provides?	Pretrial Procedure - Memo 12195 - C - AC.docx	LEGALEASE-00054589- LEGALEASE-00054590
Collins v. Union Cty. Jail, 150 N.J. 407	352H+79	Severe mental anguish can satisfy "serious bodily harm" element for first-degree rape. N.J.S.A. 2C:14-1, subd. f.	When will a mental injury become an element of rape?	Sex Offenses - Memo 24 - RK.docx	LEGALEASE-00054693- LEGALEASE-00054694
Casino Reinvestment Dev. Auth. v. Atl. City, 18 N.J. Tax 463	371+2311	Tax exemptions in favor of governmental agencies should be liberally construed.	How should the tax exemptions in favor of governmental agencies be construed?	046431.docx	LEGALEASE-00164525- LEGALEASE-00164526
Serv. Am. Corp. v. Cty. of San Diego, 15 Cal. App. 4th 1232	371+2311	Property owned by governmental entities is generally exempt from taxation.	Are properties owned by governmental entities exempt from taxation?	Taxation - Memo 1248 - C - SS_67233.docx	ROSS-003283466-ROSS- 003283467
Easley v. City of Lincoln, 213 Neb. 450	371+2311	Ordinarily, public property is exempt from general purpose taxation.	Is a public property exempt from the general taxation purposes?	046477.docx	LEGALEASE-00164695- LEGALEASE-00164696
United States v. Scott, 437 U.S. 82	135H+96	Where a defendant successfully seeks to avoid his trial prior to its conclusion by a motion for mistrial, the double jeopardy clause is not offended by a second prosecution; such a motion by defendant is deemed to be a deliberate election on his part to forego his valued right to have his guilt or innocence determined before the first trier of fact. U.S.C.A.Const. Amend. 5.	Will a second trial after an acquittal wear down the defendant?	015611.docx	LEGALEASE-00166090- LEGALEASE-00166091
State v. Blackshere, 344 S.W.3d 400	135H+100.1	When a trial ends in an acquittal, the defendant may not be tried again for the same offense. U.S.C.A. Const.Amend. 5.	"When a trial ends in an acquittal, can the defendant not be tried again for the same offense?"	Double Jeopardy - Memo 480 - C - TJ_68259.docx	ROSS-003282709-ROSS- 003282710
Fant v. State, 881 S.W.2d 830	135H+25	In analyzing whether state forfeiture statute is remedial or punitive for purposes of double jeopardy clause, court must determine first whether state legislature intended for proceedings under statute to be civil or criminal, and second, whether proceedings are so punitive in fact that forfeiture proceedings may not legitimately be viewed as civil in nature in spite of legislature's intent. U.S.C.A. Const.Amend. 5; Vernon's Ann.Texas Const. Art. 1, S 14; Vernon's C.C.P. art. 59.01 et seq.	"Is in rem civil forfeiture a remedial civil sanction, distinct from potentially punitive in personam civil penalties such as fines?"	016187.docx	LEGALEASE-00165499- LEGALEASE-00165500
People v. Burtron, 376 Ill. App. 3d 856	135H+1	The government may not put a defendant in jeopardy twice for the same offense. U.S.C.A. Const.Amend. 5.	Can a government put a defendant in jeopardy twice for the same offense?	016559.docx	LEGALEASE-00165377- LEGALEASE-00165378

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Norwegian Twp. v. Schuylkill Cty. Bd. of Assessment Appeals, 74 A.3d 1124	371+2394	Substantial evidence supported the trial court's conclusion that Board of Assessment Appeals failed to meet its burden to prove taxability of township's property; sole evidence that the Board placed into record was tax assessment record card and picture of the property, establishing only that the property was currently vacant, and township produced ample evidence to show that property was actually and regularly being used for public purpose and to support court's finding that property was available to public for recreational activities, had been used by township to benefit public, and that township had made good-faith effort to develop the land for a park or playground, and though not required for property to be tax-immune/exempt, court also found that the township made a good-faith effort to develop the property. Const. Art. 8, S 2.	"Is a government-owned property taxable, if it is being used for a public purpose?"	Taxation - Memo 1281 - C - SC_68460.docx	ROSS-003323926-ROSS-003323927
Salomon Forex v. Tauber, 8 F.3d 966	83H+12	Commodities Exchange Act was aimed at manipulation, speculation, and other abuses that could arise from trading futures contracts and options, as distinguished from commodity itself, and Congress never purported to regulate "spot transactions" (transactions for immediate sale and delivery of commodity) or "cash forward transactions" (in which commodity is presently sold but its delivery is, by agreement, delayed or deferred). Commodity Exchange Act, S 2(a)(1)(A), as amended, 7 U.S.C.A. S 2.	What system has Commodity Exchange Act established?	Commodity Futures Trading Regulation - Memo 43 - C - JL_68687.docx	ROSS-003281114-ROSS-003281115
Com. v. Lowder, 432 Mass. 92	135H+100.1	When a defendant has been put in jeopardy for an offense and acquitted, he may not be retried for that offense. U.S.C.A. Const.Amend. 5.	"When a defendant has been put in jeopardy for an offense and acquitted, can he not be retried for that offense?"	Double Jeopardy - Memo 550 - C - KG_68329.docx	ROSS-003294996-ROSS-003294997
United States v. Armco Steel Corp., 252 F. Supp. 364	135H+95.1	Generally, jeopardy does not attach when the fault was not with the prosecuting attorney nor with the defendant. U.S.C.A.Const. Amend. 5.	Does jeopardy not attach when the fault was not with the prosecuting attorney nor with the defendant?	015816.docx	LEGALEASE-00166585-LEGALEASE-00166586
State v. Musumeci, 717 A.2d 56	135H+96	As a general rule, double jeopardy bar does not preclude a second trial when a defendant requests a mistrial. U.S.C.A. Const.Amend. 5; Const. Art. 1, S 7.	Are there circumstances in which a mistrial does not preclude a second trial?	015828.docx	LEGALEASE-00166599-LEGALEASE-00166600
Tropical Jewelers v. NationsBank, N.A. (S.), 781 So. 2d 381	349A+10	Under Florida's version of Uniform Commercial Code (UCC), guarantors are not excluded from definition of "debtor," as used in secured transaction provisions, under portion of statute defining debtor as "owner of the collateral in any provision of the chapter dealing with the collateral, the obligor in any provision dealing with the obligation," or both in circumstances in which debtor and owner of collateral are not the same person; rather, such portion of statute deals with situation in which borrower takes loan and third person puts up collateral. West's F.S.A. S 679.105(1)(d).	"Are guarantors not excluded from a definition of debtor, as used in secured transaction provisions?"	042649.docx	LEGALEASE-00166947-LEGALEASE-00166948
In re Trusty, 189 B.R. 977	349A+10	Under Alabama law, "rent-to-own" agreements do not create security agreements and are not sales contracts. Ala.Code 1975, SS 8-25-1 to 8-25-6.	Do rent to own agreements not create security agreements and are not sales contracts?	042686.docx	LEGALEASE-00167065-LEGALEASE-00167066

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Ctr. for Molecular Med. & Immunology v. Twp. of Belleville, 19 N.J. Tax 342	371+2311	In order to qualify for the real property tax exemption applicable to public property, the taxpayer must demonstrate that the property in question is used for a public purpose; this requirement is, however, accorded a liberal construction, one which is reasonably broad enough to encompass legislative aims. N.J.S.A. 54:4-3.3.	Does privately-held leasehold interests in public-owned real property subject to taxation?	046524.docx	LEGALEASE-00166502- LEGALEASE-00166503
First Main St. Corp. v. Bd. of Assessors of Acton, 49 Mass. App. Ct. 25	371+2016	Doubts regarding existence of right to tax are resolved in favor of the taxpayer.	In whose favor are the doubts regarding existence of right to tax resolved?	Taxation - Memo 1321 - C - SC_68515.docx	ROSS-003293545-ROSS-003293546
Sturbridge Home Builders v. Downing Seaport, 890 A.2d 58	156+52.10(2)	Waiver is the voluntary, intentional relinquishment of a known right; it results from action or nonaction.	Does waiver result from action or nonaction?	018132.docx	LEGALEASE-00167334- LEGALEASE-00167335
Com. v. McDonald, 462 Mass. 236	3.77E+25	"Wilful conduct" for purposes of criminal harassment is that which is intentional rather than accidental; it requires no evil intent, ill will, or malevolence. M.G.L.A. c. 265, S 43A(a).	"What is ""willful conduct"" for the purposes of criminal harassment?"	046794.docx	LEGALEASE-00167364- LEGALEASE-00167365
Frunzar v. Allied Prop. & Cas. Ins. Co., 548 N.W.2d 880	21+18	Professional statements of litigant's attorney are treated as affidavits, and attorney making statement may be cross-examined regarding substance of statement.	Do professional statements have the effect of an affidavit?	07305.docx	LEGALEASE-00077613- LEGALEASE-00077614
Lackawanna Chapter of Ry. & Locomotive Historical Soc. v. St. Louis Cty., Mo., 497 F.3d 832	50+2	In the absence of a formal agreement, an indefinite bailment arises under Missouri law from the relationship between a lender and a museum and is terminable at will.	Is a formal agreement required for a bailment?	06669.docx	LEGALEASE-00079145- LEGALEASE-00079147
People v. Williams, 128 Ill. App. 3d 384	92+3419	The legislature's determination that a more severe penalty was needed to deter men from committing aggravated incest than was needed to deter women, and that men most often, if not exclusively, commit the offense, was not arbitrary, irrational, or unreasonable, and aggravated incest statute did not offend equal protection clause. U.S.C.A.Const. Amend. 14; S.H.A.Const.1970, art. 1, S 18; S.H.A. ch. 38, SS 11-10, 11-11.	Are incest sentences more stringent on men than on women?	05836.docx	LEGALEASE-00080849- LEGALEASE-00080850
Adams v. Adams, 166 So.3d 1066	20+37	"Disseisin" occurs when the true owner of real property is deprived of possession or displaced by someone exercising the powers and privileges of ownership.	When does Disseisin occur?	05860.docx	LEGALEASE-00080875- LEGALEASE-00080877
Bucca v. State, 43 N.J. Super. 315	207+5	Where uncle, who was New Jersey resident, married his niece, who was daughter of uncle's sister, in Italy under dispensation authorized by Italian law, uncle, who sought to bring the niece to New Jersey, would not be entitled to full recognition of such Italian marriage under New Jersey law, and therefore, uncle's cohabitation with niece in New Jersey would constitute incest. N.J.S. 2A:114-1, N.J.S.A.; R.S. 37:1-1, N.J.S.A.	Does marriage between uncle and niece is a crime of incest?	13358.docx	LEGALEASE-00081409- LEGALEASE-00081410

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Bucca v. State, 43 N.J. Super. 315	207+5	Where uncle, who was New Jersey resident, married his niece, who was daughter of uncle's sister, in Italy under dispensation authorized by Italian law, uncle, who sought to bring the niece to New Jersey, would not be entitled to full recognition of such Italian marriage under New Jersey law, and therefore, uncle's cohabitation with niece in New Jersey would constitute incest. N.J.S. 2A:114-1, N.J.S.A.; R.S. 37:1-1, N.J.S.A.	Does marriage between uncle and niece is a crime of incest?	10819.docx	LEGALEASE-00081457- LEGALEASE-00081458
Worden v. Smith, 178 Wash. App. 309	366+1	The purpose of the doctrine of equitable subrogation is to avoid a person's receiving an unearned windfall at the expense of another.	What is the purpose of the doctrine of equitable subrogation?	07779.docx	LEGALEASE-00081910- LEGALEASE-00081912
Worden v. Smith, 178 Wash. App. 309	366+1	The purpose of the doctrine of equitable subrogation is to avoid a person's receiving an unearned windfall at the expense of another.	What is the purpose of the doctrine of equitable subrogation?	06504.docx	LEGALEASE-00081960- LEGALEASE-00081962
Worden v. Smith, 178 Wash. App. 309	366+1	The purpose of the doctrine of equitable subrogation is to avoid a person's receiving an unearned windfall at the expense of another.	What is the purpose of the doctrine of equitable subrogation?	14760.docx	LEGALEASE-00081985- LEGALEASE-00081987
U.S. ex rel. Rongetti v. Neelly, 207 F.2d 281	24+107	Burden of proof in establishing alienage in deportation proceedings is on the government.	Who bears the burden of proof in establishing alienage in deportation proceedings?	Aliens_Immigration and Citizenship- Memo 3 - RK.docx	ROSS-003325636-ROSS- 003325637
In re Cox Enterprises Set-top Cable Television Box Antitrust Litig., 790 F.3d 1112	366+1	Where a writing fails, Kansas law recognizes equitable subrogation based upon unjust enrichment.	Do Courts recognize equitable subrogation?	Subrogation - Memo 386 - RM C.docx	ROSS-003298609-ROSS- 003298611
Serpas v. Schmidt, 621 F. Supp. 734	216+5	Individual operating within a highly regulated industry can have no reasonable expectation of privacy as to administrative inspections. U.S.C.A. Const.Amend. 4.	Is an individual operating within a highly regulated industry bound to administrative inspection?	01310.docx	LEGALEASE-00084019- LEGALEASE-00084020
U.S. ex rel. Rongetti v. Neelly, 207 F.2d 281	24+107	Burden of proof in establishing alienage in deportation proceedings is on the government.	Who bears the burden of proof in establishing alienage in deportation proceedings?	01292.docx	LEGALEASE-00084034- LEGALEASE-00084035
In re Cox Enterprises Set-top Cable Television Box Antitrust Litig., 790 F.3d 1112	366+1	Where a writing fails, Kansas law recognizes equitable subrogation based upon unjust enrichment.	Do Courts recognize equitable subrogation?	01092.docx	LEGALEASE-00084067- LEGALEASE-00084068
Velazquez v. Serrano, 43 So. 3d 82	366+1	Equitable subrogation is not allowed if it works any injustice to the rights of others; a party's entitlement to subrogation therefore depends upon the equities and attending facts of each case.	Is equitable subrogation not allowed if it works any injustice to the rights of others?	05137.docx	LEGALEASE-00084188- LEGALEASE-00084189
Stiles v. Clifton Springs Sanitarium Co., 74 F. Supp. 907	180+48(1)	At common law, suicide was a crime and consequence was forfeiture of property of offender.	Is the forfeiture of the offenders property a consequence of suicide?	05172.docx	LEGALEASE-00084237- LEGALEASE-00084239

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Bounds, 495 B.R. 725	51+2556	Chapter 7 debtor-husband's cause of action for his attorneys' alleged malpractice, in purportedly devising ill-conceived and self-serving plan to stall pending state court litigation by advising him to file for bankruptcy on eve of trial without explaining that any judgment from litigation would not be dischargeable in bankruptcy and that securities violations alleged would render his homestead nonexempt, accrued on the moment that bankruptcy case was commenced and some of alleged injury first occurred, even if debtor-husband did not at that time know the full extent of his injuries; accordingly, malpractice claims belonged, not to debtor-husband, but to bankruptcy estate. 11 U.S.C.A. S 541(a)(1).	Do the facial allegations in the complaint limit and guide the court's analysis of when a cause of action accrues?	05664.docx	LEGALEASE-00085017- LEGALEASE-00085018
McNish v. Gen. Credit Corp., 164 Neb. 526	398+76	Where charge for loan made to finance purchase of truck was in excess of maximum rate of interest allowable by statute, note given as evidence of such loan was void from its inception and maker was entitled to have the same canceled as well as a return of installment payments previously made thereon. R.S.Supp. 1953, S 45-138.	Are loans made in violation of installment loan statutes void and uncollectable?	05727.docx	LEGALEASE-00085370- LEGALEASE-00085371
Guthrie v. Nat'l Advert. Co., 556 N.E.2d 337	277+2	Notice is actual where the purchaser is aware of the adverse claim or title or has such information as would lead to knowledge.	When can a notice be inferred as an actual notice?	07096.docx	LEGALEASE-00089151- LEGALEASE-00089152
A & B Bolt & Supply v. Whitco Supply, 167 So. 3d 967	307A+581	Statute governing abandonment was not intended to dismiss those cases in which a plaintiff has clearly demonstrated before the court during the prescribed period that he does not intend to abandon the action. LSA-C.C.P. art. 561.	"Does the statute governing abandonment, intend to dismiss those cases in which a plaintiff has clearly demonstrated before the court that he does not intend to abandon the action?"	11052.docx	LEGALEASE-00094077- LEGALEASE-00094078
Westmoreland v. Sadoux, 299 F.3d 462	25T+179	Nonsignatory cannot compel arbitration merely because he is an agent of one of the signatories of arbitration agreement.	Can a nonsignatory compel arbitration because he is an agent of one of the signatories?	10745.docx	LEGALEASE-00094170- LEGALEASE-00094171
Carlisle v. U.S., 83 U.S. 147	384+1	"Allegiance" is the obligation of fidelity and obedience which the individual owes to the government under which he lives, or to his sovereign in return for the protection he receives, and it may be an absolute and permanent obligation, or it may be a qualified and temporary one.	How is allegiance defined?	11439.docx	LEGALEASE-00094663- LEGALEASE-00094664
MAG Portfolio Consultant, GMBH v. Merlin Biomed Grp. LLC, 268 F.3d 58	25T+182(1)	Under estoppel theory for binding nonsignatory to arbitration agreement, where company knowingly accepted direct benefits of agreement containing arbitration clause, company may be bound by arbitration clause even without signing agreement. 9 U.S.C.A. S 1 et seq.	Can a company be estopped from avoiding an arbitration clause under the estoppel theory?	10729.docx	LEGALEASE-00094667- LEGALEASE-00094668
Arrow Marble v. Estate of Killion, 441 S.W.3d 702	307A+690	A dismissal for failure to appear at trial or for want of prosecution should be without prejudice.	Is a dismissal for failure to prosecute to be without prejudice?	11150.docx	LEGALEASE-00094683- LEGALEASE-00094684
Arrow Marble v. Estate of Killion, 441 S.W.3d 702	307A+690	A dismissal for failure to appear at trial or for want of prosecution should be without prejudice.	Should a dismissal for failure to prosecute be without prejudice?	10301.docx	LEGALEASE-00095163- LEGALEASE-00095164
A & B Bolt & Supply v. Whitco Supply, 167 So. 3d 967	307A+581	Statute governing abandonment was not intended to dismiss those cases in which a plaintiff has clearly demonstrated before the court during the prescribed period that he does not intend to abandon the action. LSA-C.C.P. art. 561.	"Does the statute governing abandonment, intend to dismiss those cases in which a plaintiff has clearly demonstrated before the court that he does not intend to abandon the action? "	09700.docx	LEGALEASE-00095940- LEGALEASE-00095941

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Estate of Gallagher, 383 Ill. App. 3d 901	307A+688	Party moving for involuntary dismissal admits legal sufficiency of complaint but asserts affirmative defense or other matter to defeat plaintiff's claim. S.H.A. 735 ILCS 5/2-619.	What is the purpose of a motion to dismiss that admits the legal sufficiency of the complaint?	09674.docx	LEGALEASE-00096515- LEGALEASE-00096516
Midway Motor Lodge of Brookfield v. Hartford Ins. Grp., 226 Wis. 2d 23	302+71	Ad damnum clause is not a substantive part of the complaint; it is nothing more than an "asking price."	Is the ad damnum clause a substantive part of the complaint?	05712.docx	LEGALEASE-00113388- LEGALEASE-00113389
Life Ins. Co. of Georgia v. Smith, 719 So. 2d 797	157+129(5)	Evidence of forgeries by life insurance agent to obtain funds from beneficiary for investment and to inflate sales account were relevant as other wrongs or acts and admissible in suit by employees alleging fraud in sale of life insurance by representing it as cafeteria retirement program or savings plan, even though the alleged other wrongs occurred after the alleged fraud; insurer defended on ground that written material disclosed that employees were purchasing insurance, employees claimed forgery of their signatures on these documents, and forgery and concealment of critical portions of documents were common elements in the transactions. Rules of Evid., Rule 404(b).	Is forgery a species of fraud?	000132.docx	LEGALEASE-00115652- LEGALEASE-00115653
Jules-Wallace & Co. v. R.A. Mgmt., 148 Misc. 180	38+13	Assignment of wages to be earned in future, under employment contract not then existing, held void as against public policy, or at least unenforceable in law action against employer.	How is the validity of wage assignments to be tested?	003809.docx	LEGALEASE-00115829- LEGALEASE-00115830
Costanzo v. Costanzo, 248 N.J. Super. 116	38+4	Any "specific thing," debt, or chose in action may be subject of assignment, but that which is not in existence or cannot be identified cannot be assigned.	Can any specific thing be assigned to effectuate a legal assignmen?	003889.docx	LEGALEASE-00115900- LEGALEASE-00115901
Biondo v. Biondo, 769 So. 2d 94	253+953	By matrimonial agreement, wife and husband could have provided for contribution to the expenses of the marriage, for apportionment of community property according to fixed shares, or for the reservation of fruits as separate property, and they could have provided that their existing or future property would be subject to something other than the legal regime. LSA-C.C. art. 2330.	How is a property classified as separate and community?	005129.docx	LEGALEASE-00117353- LEGALEASE-00117354
Argonaut Ins. Co. v. C & S Bank of Tifton, 140 Ga. App. 807	366+1	Subrogation is not founded upon contract, express or implied, but upon principles of equity and justice.	Is the right of subrogation founded upon contract?	Subrogation - Memo 85 - RM C.docx	ROSS-003297947-ROSS- 003297948
In re Funneman, 155 B.R. 197	289+953	Under Illinois law, partners' rights in partnership property are secondary to rights of partnership creditors; until creditors of partnership are satisfied, no partner has right to any distribution from partnership.	Do partners have the right to distribution of partnership property before creditors are satisfied ?	021863.docx	LEGALEASE-00122521- LEGALEASE-00122522
Focht v. Focht, 613 Pa. 48	134+717	When a cause of action accrues, that is, when an injury has been inflicted, leading to the right to institute and pursue a suit for damages, after the date of marriage and before the date of final separation, then any settlement proceeds resolving that cause of action are marital property, regardless of when the settlement actually occurs. 23 Pa.C.S.A. S 3501(a)(8).	Does cause of action or a claim accrue on the date that plaintiff could have first maintained the action to a successful conclusion by holding an enforceable claim?	005451.docx	LEGALEASE-00122875- LEGALEASE-00122876

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Helmerich & Payne Int'l Drilling Co. v. Bolivarian Republic of Venezuela, 971 F. Supp. 2d 49	221+342	The act of state doctrine goes to the merits, and is not a jurisdictional defense.	Does the act of state doctrine go to the merits and is not a jurisdictional defense?	International Law - Memo # 523 - C - SU.docx	ROSS-003324279-ROSS-003324281
Terex-Telelect v. Wade, 59 N.E.3d 298	30+3209	When reviewing a grant or denial of a motion in limine, the Court of Appeals applies the standard of review for the admission of evidence, which is whether the trial court abused its discretion.	Is the granting of a motion in limine an adjunct of the inherent power of trial courts which will not be reversed absent an abuse of discretion?	036740.docx	LEGALEASE-00125485-LEGALEASE-00125486
Boston Nutrition Soc. v. Stare, 342 Mass. 439	237+97	Questions relating to public health and nutrition are of public concern, but the qualified privilege of fair comment upon a matter of public concern is a matter of defense in a libel action ordinarily not open on demurrer.	Are matters of defence open on demurrer?	023014.docx	LEGALEASE-00125675-LEGALEASE-00125676
United States v. Bahel, 662 F.3d 610	393+315(9)	Prosecution of Chief of Commodity Procurement Section within the United Nation's Procurement Division, as foreign national employee, under statute prohibiting theft involving federal funds, for of use of mail or wires in furtherance of fraud that deprived United Nations, his former employer, of its intangible right to his honest services, corrupt receipt of things of value with intent to be rewarded with respect to official business, and conspiracy, did not violate Spending Clause or Necessary and Proper Clause, since congress had authorized payment of U.N. dues from federal monies. U.S.C.A. Const. Art. 1, S 8, cls. 1, 18; 18 U.S.C.A. SS 371, 666, 1341, 1343, 1346.	Does the statute that prohibits theft involving federal funds extend to both bribes and gratuities?	011040.docx	LEGALEASE-00125948-LEGALEASE-00125949
State v. White, 115 Wis. 2d 696	67+9(0.5)	Essential elements of felonious breaking or entering are breaking or entering, that such breaking or entering was of any building, and that such breaking or entering was with intent to commit any felony or larceny therein.	What are the elements of breaking and entering?	Burglary - Memo 2 - RK.docx	ROSS-003299915-ROSS-003299916
United States v. Scholz, 19 M.J. 837	258A+509	Government agencies, including those of the military, must comply with their own regulations, and the Navy is obligated to comply with Department of Defense directives.	"Do government agencies, including the military, have to comply with the regulations they promulgate? "	008342.docx	LEGALEASE-00128624-LEGALEASE-00128625
Hensel Phelps Const. Co. v. C.I.R., 703 F.2d 485	289+482	Intent of parties is critical factor in determining when partnership began.	Is the intent of the parties a critical factor in determining when a partnership shall commence?	022020.docx	LEGALEASE-00128946-LEGALEASE-00128947
Bernstein & Grazian, P.C. v. Grazian & Volpe, P.C., 402 Ill. App. 3d 961	30+185(1)	Appellate jurisdiction cannot be conferred by laches, agreement, waiver, or estoppel, including a party's failure to call the jurisdictional defect to the appellate court's attention.	"Can Appellate jurisdiction be conferred by agreement, waiver, or estoppel?"	008258.docx	LEGALEASE-00129539-LEGALEASE-00129540
Besemer v. Bd. of Cty. Comm'rs, Brown Cty., 357 N.W.2d 365	79+33	District court has broad discretion under statute allowing review of salary set for clerk of court and deputy clerks to adjust disputed salaries. M.S.A. SS 485.018, subd. 7, 487.13.	Does the district court have the discretion to adjust salaries?	013379.docx	LEGALEASE-00130187-LEGALEASE-00130188
Arbuckle-Coll. City Fire Prot. Dist. v. Cty. of Colusa, 105 Cal. App. 4th 1155	371+2001	Taxes that provide revenues that are available for all purposes of the governmental entity are "general taxes" and include ad valorem property taxes; whereas, taxes that provide revenue for a specific or limited purpose are "special taxes."	What are general taxes?	044646.docx	LEGALEASE-00131488-LEGALEASE-00131490
Borger v. Conner, 210 A.2d 546	307A+749.1	Generally party is bound by pretrial order, but rigid adherence to it should not always be exacted.	Is a party bound to rigidly adhere to a pretrial order?	028084.docx	LEGALEASE-00132180-LEGALEASE-00132181

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Riedman v. Macht, 98 Ind. App. 124	8.30E+296	Law merchant is part of common law and governs bills of exchange, but does not at common law apply to promissory notes which at common law were not negotiable as bills of exchange.	What is the Law Merchant	009421.docx	LEGALEASE-00137747- LEGALEASE-00137748
Falls Rubber Co. of Akron v. Applebaum, 286 Mass. 18	269+10	One doing business under trade-name may be liable on paper executed by him in that name. G.L.(Ter.Ed.) c. 107, S 40.	Can one who does business under a trade name be liable upon paper executed by him in that name?	009538.docx	LEGALEASE-00142636- LEGALEASE-00142637
In re Frick's Estate, 277 Pa. 242	371+2005	A tax can only be imposed by the state when it has either jurisdiction over the person or over his property.	Can a tax be imposed by the state only when it has either jurisdiction over the person or over his property?	045773.docx	LEGALEASE-00144506- LEGALEASE-00144508
Whigham v. Chase Auto Fin. Corp., 826 F. Supp. 2d 914	34+34.4(6)	Servicemember failed to allege lien held by assignee of financing contract he executed in connection with the purchase of a new truck included any charges for storage, as required to state a claim against assignee under provision of Servicemember Civil Relief Act (SCRA) governing storage liens. Servicemembers Civil Relief Act, S 307, 50 App.U.S.C.A. S 537.	" In order to fall within the Soldiers' and Sailors' Civil Relief Act (SSCRA), must a storage lien include charges for storage?"	008712.docx	LEGALEASE-00147994- LEGALEASE-00147995
Larrabee v. Bank of Am., N.A., 714 F. Supp. 2d 562	172H+1344	Borrower who sued lender and Federal Home Loan Mortgage Corporation (Freddie Mac), seeking rescission of mortgage loan transaction, failed to allege that lender inaccurately disclosed number and due dates of mortgage payments, as required to state claim under Truth in Lending Act (TILA); borrower's erroneous construction of mortgage terms on disclosure form would have mandated 359 loan payments on single date. Truth in Lending Act, S 103(u), 15 U.S.C.A. S 1602(u); 12 C.F.R. S 226.18(g).	"Under federal law, is a creditor required to disclose the total payments?"	013929.docx	LEGALEASE-00149531- LEGALEASE-00149532
State v. Smith, 10 R.I. 258	3.77E+10	"Purpose," as an element of the offense of making terroristic threats, means aim, objective, or intention, and "terrorize," as an element of the offense, means to cause extreme fear by use of violence or threats. M.S.A. S 609.713.	"What does ""purpose"" mean within the context of the terroristic-threats statute? "	046849.docx	LEGALEASE-00150458- LEGALEASE-00150459
Blevins v. Johnson Cty., 746 S.W.2d 678	156+32(1)	Successor-in-interest was estopped from claiming incidental damages caused to his business property by reconstruction of state highway that resulted in restriction of access to parking lot; deed from predecessor-in-interest specifically reserved and excepted all prior easements and conveyances in fee to government for rights-of-way, and deed executed by predecessor-in-interest to State for other portion of property contained recital disclaiming any right to incidental damages from taking and included notation of highway project number, and thus successor-in-interest could have and should have discovered extent to which highway project was to have affected his property.	"Is the recital in the deed, that the consideration for it is in full of all damages that the grantor may suffer, an estoppel against his right to later sue for such damages?"	017998.docx	LEGALEASE-00150624- LEGALEASE-00150625
Latham v. Brown, 16 Iowa 118	97C+211	The amount of promissory notes delivered to a justice of the peace for collection, and wrongfully converted to his own use, is prima facie the measure of damages for such conversion; but the insolvency of the makers may be shown in mitigation of damages.	Is the amount of the face value of notes or choses in action which have been improperly converted the measure of its damages?	010355.docx	LEGALEASE-00151142- LEGALEASE-00151143
Idaho Wool Growers Ass'n v. Vilsack, 816 F.3d 1095	149E+599	National Environmental Policy Act (NEPA) imposes on federal agencies conducting environmental review a duty to consult with certain other agencies. National Environmental Policy Act of 1969, S 102(2)(C), 42 U.S.C.A. S 4332(2)(C).	Do the federal agencies have to consult other agencies?	Woods and Forests- Memo 48- ANM_60275.docx	ROSS-003282235-ROSS- 003282236

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Jaffer v. Chase Home Fin., 155 So. 3d 1199	266+1784(2)	Allegations of mortgagee's foreclosure complaint were sufficient to state a cause of action for mortgage foreclosure, even though copy of promissory note attached to the complaint was payable to a different lender and did not contain any indorsements or allonges demonstrating that the note had been transferred to mortgagee; complaint alleged that mortgagee was now the holder of the note and mortgage or entitled to enforce them, and copy of note did not negate the cause of action, but merely raised a possible standing defense.	"For exhibits to a complaint to serve as a basis for dismissing a complaint for failure to state a cause of action, should the exhibits actually negate the cause of action?"	Pretrial Procedure - Memo # 9084 - C - NS_60765.docx	ROSS-003292861-ROSS- 003292862
Cady v. Bay City Land Co., 102 Or. 5	83E+431	Since one who writes his name on the back of a negotiable instrument may enlarge or restrict his liability without destroying his character as an indorser, a writing by the payee on the back of a promissory note, "Notice of protest waived and payment guaranteed," passed title to his assignee; such guaranty of payment being equivalent to an indorsement, and the rights of the parties, in view of Or.L. S 7910, ORS 71.118, requiring protest only in case of foreign bills of exchange, not being affected by such waiver of notice.	Does indorsing a guarantee on a note enlarge liability?	009980.docx	LEGALEASE-00154683- LEGALEASE-00154684
Capitol Hill State Bank v. Rawlins Nat. Bank of Rawlins, 24 Wyo. 423	388+45(1)	In an action by the indorsee and holder of an unpaid certificate of deposit issued by the defendant bank, execution of the instrument being admitted by the answer, but its indorsement by payee denied, the offer of the certificate in evidence did not include the indorsement which was not essentially a part of the certificate, and in the absence of proof of the indorsement was insufficient to prove the fact of indorsement or to entitle the indorsement to be admitted in evidence.	Is it mandatory to include indorsement in an offer of the certificate of evidence?	009009.docx	LEGALEASE-00154719- LEGALEASE-00154720
Waldor Realty Corp. v. Town Clerk of Bellingham, 350 Mass. 669	302+17	Averments of crucial facts in pleading should be clear, direct and unequivocal.	Should averments of crucial facts in a pleading be direct and unequivocal?	023817.docx	LEGALEASE-00158370- LEGALEASE-00158371
Hager v. City of Devils Lake, 2009 ND 180	307A+693.1	After a court enters an order of dismissal without prejudice, the action is ended, and there is no longer an action pending before the court.	"After a court enters an order of dismissal without prejudice, is the action ended, and is it no longer pending before the court?"	025737.docx	LEGALEASE-00158576- LEGALEASE-00158577
Dir. of Ins. ex rel. State v. A & A Midwest Rebuilders, 383 Ill. App. 3d 721	30+78(4)	An order of dismissal may be final even though it is not with prejudice.	Can an order of dismissal be final even though it is not with prejudice?	Pretrial Procedure - Memo # 10967 - C - VP_63902.docx	ROSS-003280437-ROSS- 003280438
Shearson/Am. Exp. v. First Cont'l Bank & Tr. Co., 579 F. Supp. 1305	309+59	Under Kansas law, surety bond is treated as contract for insurance, and bond is subject to same rules of construction that apply to insurance contracts.	Are surety bonds considered as insurance policy?	019572.docx	LEGALEASE-00159569- LEGALEASE-00159570

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Dayner v. Archdiocese of Hartford, , 2009 WL 865740	92+1368(1)	The ministerial exception in the First Amendment did not bar the court from hearing the case. The former principal of a religious school brought suit against the school after she was terminated, allegedly, in retaliation of an action she took. The school asserted that the ministerial exception to judicial authority precluded the court from adjudicating employment disputes between religious institutions and their religious leaders. The disputes in this case did not intrude into purely religious matters or issues of church governance. U.S.C.A. Const. Amend. 1 .	Does the Free Exercise Clause bar court adjudication of such disputes where the religious affiliation of the institution or business is not pervasive or the duties of the aggrieved employee?	017221.docx	LEGALEASE-00160984- LEGALEASE-00160985
People by Abrams v. Am. Motor Club, 133 A.D.2d 593	217+1001	Prepaid collision service contract was an "insurance contract" as defined by the Insurance Law where contract obligated seller to repair damaged car or reimburse customer for loss regardless of cost and customer was obligated to pay only annual agreement fee plus a service charge for repair, both set at time of application and neither bearing any relationship to the cost of repair or the reimbursement, and fact that seller purchased its own policy of reinsurance did not alter the fact that the contract was one of insurance. McKinney's Insurance Law S 1101(a)(1).	Are prepaid collision service contracts insurance contracts?	019518.docx	LEGALEASE-00161557- LEGALEASE-00161558
Grubb v. Teale, 265 Ala. 257	200+12	Establishment of a roadway by prescription gives to the public an easement only and the owner is not divested of the fee in land so used.	Does the fee remain with the owner when the public acquires an easement in the highway?	018809.docx	LEGALEASE-00161657- LEGALEASE-00161658
Lower Nueces River Water Supply Dist. v. Live Oak Cty., 312 S.W.2d 696	64+7	Roads and bridges of state, although constructed by county, are property of state and not county.	Are the roads and bridges of the State constructed by a County the property of the State?	018885.docx	LEGALEASE-00161817- LEGALEASE-00161818
Appeal of News Pub. Co., 12 Kan. App. 2d 328	371+2016	Entire matter of taxation is legislative and does not exist apart from statute; legislature is empowered to provide means and agencies for carrying out its responsibilities in matter of taxation.	Does the entire matter of taxation exist apart from statute?	Taxation - Memo 1330 - C - NSY_68524.docx	ROSS-003321967-ROSS- 003321968
Procella v. Beto, 319 F. Supp. 662	21+5	In Texas, as a general rule, affidavits which are notarized by counsel offering them into evidence are void.	Are affidavits which are notarized by the counsel void?	Affidavits - Memo 46 - _1R34trGUkzE5JieS0FVjn LllifYn54Jl.docx	ROSS-000000189-ROSS- 000000190
W. Virginia Div. of Izaak Walton League of Am. v. Butz, 522 F.2d 945	411+8	As used in Organic Act provision that timber in national forest, before being sold, shall be marked and designated, "marked" means selection and indication by a blaze, paint or marking hammer on the stem of trees to be felled or retained, and "designate" means to indicate, and as the words are not synonymous, forest service must not only designate that area from which timber is to be sold, but mark each individual tree authorized to be cut. 16 U.S.C.A. S 476.	What is the meaning of the term marking in forestry?	Woods and Forest - Memo 62 - AR_58584.docx	ROSS-003278810-ROSS- 003278811

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Envtl. Prot. Info. Ctr. v. Dep't of Forestry & Fire Prot., 43 Cal. App. 4th 1011	411+5	Rule of construction, expressio unius est exclusio alterius, that where exceptions to a general rule are specified by statute, other exceptions are not to be implied or presumed, applied in considering challenge to Board of Forestry (BOF) regulation excusing persons owning three acres or less of property from having to comply with timber harvest plan (THP) requirements of Forest Practice Act, legislature had directly and in detail dealt with what BOF may do regarding authorizing exemptions to THP requirement and broad general grant of authority did not give BOF authority to materially broaden exemptions by regulation. West's Ann.Cal.Pub.Res.Code SS 4551, 4551 et seq., 4584; Cal.Code, Regs. title 14, S 1038, subd. (c).	Is it the board or the courts that establishes forest policy?	Woods and Forest - Memo 25 - ANM_58703.docx	ROSS-003279868-ROSS-003279869
Dakota Provisions v. Hillshire Brands Co., 226 F. Supp. 3d 945	308+2	Agency is a creature of state law and, in South Dakota, is governed by both statutory and common law.	Is an agency a creature of state law?	Principal and Agent - Memo 406 - RK_63960.docx	ROSS-003280102-ROSS-003280103
AT & T Techs. v. Commc'ns Workers of Am., 475 U.S. 643	25T+112	Arbitration is matter of contract and party cannot be required to submit to arbitration any dispute which he has not agreed so to submit.	Can parties submit to arbitrate any dispute that they have not agreed to arbitrate?	Alternative Dispute Resolution - Memo 49-JS.docx	ROSS-003281697-ROSS-003281699
Metmor Fin. v. Landoll Corp., 976 S.W.2d 454	366+1	Subrogation compels ultimate payment of debt by one who, in justice, equity and good conscience, should pay it.	What does equitable subrogation compel?	Subrogation - Memo 237 - VG C.docx	ROSS-003283464-ROSS-003283465
In Re Mountaintop Area Joint Sanitary Auth., 166 A.3d 553	148+2.1	When determining whether a de facto taking has occurred, court focuses on the governmental action in question.	Does occurrence of a de facto taking focus on the governmental action in question?	Eminent Domain -Memo 56- VP.docx	ROSS-003283773-ROSS-003283774
In re Houston, 409 B.R. 799	366+1	Under South Carolina law, subrogation arises by statute, by contract, or in equity.	"Does subrogation arise by statute, by contract, or in equity?"	Subrogation - Memo 129 - VP C.docx	ROSS-003283871-ROSS-003283872
Kennedy v. City of New York, 196 N.Y. 19	233+695(3)	A tenant holding over after the expiration of a definite term for a year, or years, may be treated by the landlord as a trespasser, or as a tenant from year to year, holding under the conditions of the original lease except as to duration. Order (1908) 111 N.Y.S. 61, 127 App.Div. 89, reversed.	Is a tenant who holds over considered a tenant from year to year?	Landlord and Tenant - Memo 38 - ANG.docx	ROSS-003283966-ROSS-003283969
Interamerican Ref. Corp. v. Texaco Maracaibo, 307 F. Supp. 1291	221+351	Federal jurisdiction being present, a showing of bona fide compulsion by a foreign government immunizes an otherwise illegal boycott. Sherman Anti-Trust Act, SS 1, 2, 15 U.S.C.A. SS 1, 2; Clayton Act, S 4, 15 U.S.C.A. S 15.	Is participation in what might otherwise be an illegal boycott immunized by acquiescence in the order of a foreign government?	International Law - Memo # 617 - MC.docx	ROSS-003284128-ROSS-003284129
Am. Ins. Co. v. Ohio Bur. of Workers Comp., 62 Ohio App. 3d 921	366+7(1)	Surety is traditionally subrogated to rights of the one it pays, the obligee.	Is a surety traditionally subrogated to the rights of the one it pays?	Subrogation - Memo # 910 - C - CAR.docx	ROSS-003284134-ROSS-003284135
Schmidt v. Cal-Dive International, 240 F.Supp.3d 532	237+6(1)	In Louisiana, defamatory words are divided into two categories: those that are defamatory per se and those that are susceptible of a defamatory meaning.	What are the two categories of defamatory words?	Libel and Slander - Memo 179 - RK.docx	ROSS-003284206-ROSS-003284207
Tachiona v. United States, 386 F.3d 205	221+179	Vienna Convention's protection of diplomats' "inviolability" of the person precludes service of process on persons entitled to diplomatic immunity, even where such persons are served on behalf of non-immune, private entity.	Does inviolability principle preclude service of process on a diplomat?	Ambassadors and Consuls - Memo 8 - MS.docx	ROSS-003284587-ROSS-003284588

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Kaufman v. Comm'n for Lawyer Discipline, 197 S.W.3d 867	46H+1156	Attorney did not proffer during trial evidence of his substantive defenses, which was excluded by motion in limine, or obtain an adverse ruling from the trial court, and thus preserved nothing for review in connection with the exclusion of that evidence at trial which resulted in attorney's disbarment. Rules App.Proc., Rule 33.1(a)(2)(A).	Is the granting of a motion in limine a final ruling on the evidence or does it preserve anything for review?	Pretrial Procedure - Memo # 922 - C - TJ.docx	ROSS-003285204-ROSS-003285205
In re AppOnline.com, 321 B.R. 614	8.30E+10	Under New York choice-of-law rules, general rule is that laws of state where note is executed and payable govern the interpretation of that note.	Which law governs the interpretation of a note?	Bills and Notes - Memo 46 - ANG.docx	ROSS-003285793-ROSS-003285794
Montgomery v. Compass Airlines, 98 F. Supp. 3d 1012	231H+1549(14)	Provision of collective bargaining agreement (CBA), requiring the system board to hear and decide all grievances, and providing that its decisions were final and binding on the parties, required airline employee to submit FMLA claim against airline employer to system board for arbitration; CBA provision was clear and unmistakable waiver of judicial forum for the FMLA claim, as the CBA contained explicit statutory reference to the FMLA, wherein employer promised to comply with the FMLA, and CBA provision made arbitration of any claims arising under the terms of the CBA mandatory. Family and Medical Leave Act of 1993, S 2 et seq., 29 U.S.C.A. S 2601 et seq.	Can employment-related civil rights claims be subjected to mandatory arbitration provisions?	Alternative Dispute Resolution - Memo 407 - RK.docx	ROSS-003286087-ROSS-003286088
Levy v. HLI Operating Co., 924 A.2d 210	366+33(1)	Subrogation differs from contribution because its operation rests on concepts of primary and secondary liability among obligors; thus, it acts to place an entire loss, not just a portion, on another party.	"Are ""contribution"" and ""subrogation"" distinct? "	Subrogation - Memo # 475 - C - SA.docx	ROSS-003286366-ROSS-003286367
Benjamin v. Jacobson, 172 F.3d 144	92+2385	In requiring termination of consent decrees that are not supportable by requisite findings, Prison Litigation Reform Act (PLRA) termination provision does not violate constitutional separation of powers principle by requiring courts to reopen final judgments, since PLRA's termination provision does not require termination of any relief other than prospective relief, courts would have inherent authority to modify or terminate forward-looking injunctive provisions in light of changes in law or circumstances, and statutory definition of prospective relief expressly excludes compensatory monetary damages. 18 U.S.C.A. S 3626(b)(2).	"Do court of equity have the power to modify an injunction in adaptation to changed conditions, though it was entered by consent?"	Action - Memo # 669 - C - SS.docx	ROSS-003286486-ROSS-003286488
Roberson v. Rollins, 710 S.W.2d 180	307A+501	Rule governing nonsuits is liberally construed in favor of right to nonsuit. Vernon's Ann.Texas Rules Civ.Proc., Rule 164.	Is arule governing nonsuits liberally construed in favor of a right to nonsuit?	Pretrial Proceedure - Memo # 1146 - C - TJ.docx	ROSS-003286758-ROSS-003286759
Hensel Phelps Const. Co. v. C.I.R., 703 F.2d 485	289+482	Intent of parties is critical factor in determining when partnership began.	Is the intent of the parties a critical factor in determining when a partnership shall commence?	Partnership - Memo 232 - RK.docx	ROSS-003286829-ROSS-003286830
Okeson v. City of Seattle, 150 Wash. 2d 540	371+2001	Generally speaking, taxes are imposed to raise money for the public treasury.	Is tax a charge imposed to raise money for the public treasury?	Taxation - Memo # 35 - C - CK.docx	ROSS-003286870-ROSS-003286872

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Tomsha v. City of Colorado Springs, 856 P.2d 13	413+1	There is no constitutionally protected civil right in workers' compensation benefits. 42 U.S.C.A. S 1981.	Is there a constitutionally protected civil right in workers' compensation?	Workers Compensation - Memo #103 ANC.docx	ROSS-003286943-ROSS-003286944
Yell Cty. Tel. Co. v. Taylor, 336 Ark. 108	307A+501	Right to a voluntary nonsuit rests solely with plaintiffs. Rules Civ.Proc., Rule 41(a).	Does the right to a voluntary nonsuit rest solely with plaintiffs?	Pretrial Proceedure - Memo # 1132 - C - TJ.docx	ROSS-003288389-ROSS-003288390
McGuire, Cornwell & Blakey v. Grider, 771 F. Supp. 319	25T+216	Arbitrator's unwillingness to arbitrate parties' dispute over legal fees did not affect enforceability of arbitration agreement, absent showing that naming of arbitrator was central to parties' agreement to arbitrate. Fed.Rules Civ.Proc.Rule 60(b)(2), 28 U.S.C.A.; 9 U.S.C.A. S 5.	Does the unwillingness of the arbitrator to arbitrate the parties' dispute affect the enforceability of the arbitration agreement?	Alternative Dispute Resolution - Memo 639 - JS.docx	ROSS-003289052-ROSS-003289053
In re Brooks, 143 N.C. App. 601	307A+552	If, during the course of litigation, an action becomes moot, it should usually be dismissed.	Should an action be dismissed if during the course of litigation it becomes moot?	Pretrial Procedure - Memo # 7324 - C - VA.docx	ROSS-003289547-ROSS-003289548
Wrenn v. Lawrence Cotton Mills, 198 N.C. 89	157+423(6)	Persons writing names on backs of notes are secondarily liable as indorsers, in absence of words clearly indicating different intent, and parol evidence of indorsement thereof as comakers, guarantors, or sureties is inadmissible (C.S. SS 3044, 3045).	Can a person be deemed to be an indorser unless he clearly indicates by appropriate words?	Bills and Notes-Memo 1214-PR_61523.docx	ROSS-003291834-ROSS-003291835
Procella v. Beto, 319 F. Supp. 662	21+5	In Texas, as a general rule, affidavits which are notarized by counsel offering them into evidence are void.	Are affidavits which are notarized by the counsel void?	Affidavits - Memo 46 - SNJ_60843.docx	ROSS-003293241-ROSS-003293242
Capitol Hill State Bank v. Rawlins Nat. Bank of Rawlins, 24 Wyo. 423	388+45(1)	In an action by the indorsee and holder of an unpaid certificate of deposit issued by the defendant bank, execution of the instrument being admitted by the answer, but its indorsement by payee denied, the offer of the certificate in evidence did not include the indorsement which was not essentially a part of the certificate, and in the absence of proof of the indorsement was insufficient to prove the fact of indorsement or to entitle the indorsement to be admitted in evidence.	Is it mandatory to include indorsement in an offer of the certificate of evidence?	Bills and Notes - Memo 1007 - RK_61287.docx	ROSS-003296521-ROSS-003296522
Rothwell v. Taylor, 303 Ill. 226	191+47(1)	The burden is on alleged donee of negotiable instruments to prove all facts essential to a valid gift.	Who shares the burden to prove all facts essential to a valid gift?	Bills and Notes - Memo 890 - RK_60689.docx	ROSS-003296757-ROSS-003296758
Roberts v. Cent. Refrigerated Serv., 27 F. Supp. 3d 1256	360+18.15	Federal Arbitration Act (FAA) did not preempt Utah Arbitration Act, for purposes of determining whether to compel arbitration in truck driver's action against carrier, alleging violations of the Fair Labor Standards Act (FLSA), pursuant to arbitration agreement in employment contract; driver and carrier chose to abide by Utah's arbitration law, purpose of FAA was to place arbitration agreements on same footing as other contracts, and FAA contained express preemptive provision. 9 U.S.C.A. S 1; Fair Labor Standards Act of 1938, S 1 et seq., 29 U.S.C.A. S 201 et seq.; West's U.C.A. S 78B-11-107(1).	Does the Federal Arbitration Act (FAA) contain an express preemptive provision?	Alternative Dispute Resolution - Memo 335 - RK.docx	ROSS-003297499-ROSS-003297500
The Care Grp. Heart Hosp. v. Sawyer, 80 N.E.3d 190	307A+14.1	Purpose of the discovery rules is to allow for minimal trial court involvement and to promote liberal discovery.	What is the purpose of discovery rules?	Pretrial Procedure - Memo 3 - JS.docx	ROSS-003298338-ROSS-003298339
Rayonier v. Polson, 400 F.2d 909	411+1	Under Washington law, standing timber owned by owner of real property on which it is growing is regarded as real property.	Is standing timber real property?	Woods and Forests - Memo 1 - RK.docx	ROSS-003298721-ROSS-003298722

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. McDowell, 246 Neb. 692	67+9(1)	Climbing or jumping fence does not constitute "breaking" within definition of burglary statute. Neb.Rev.St. S 28-507.	Does climbing or jumping over a fence constitute breaking?	Burglary - Memo 301 - RK_62303.docx	ROSS-003298767-ROSS-003298768
Alexander v. State, 126 Tex. Crim. 625	67+7	Ownership of burglarized premises must be alleged and proven by title, possession or greater right to possession than defendant in order to sustain burglary conviction. V.T.C.A., Penal Code SS 1.07, 1.07(a)(24, 28), 30.02, 30.02(a), 31.10.	How is the ownership of burglarized premises proven?	Burglary - Memo 266 - RK_62270.docx	ROSS-003306595-ROSS-003306596
Oxford Health Plans LLC v. Sutter, 133 S. Ct. 2064	25T+112	Class arbitration is matter of consent: arbitrator may employ class procedures only if parties have authorized them.	Is class arbitration a matter of consent?	Alternative Dispute Resolution - Memo 78 - AKA.docx	ROSS-003308936-ROSS-003308938
Georgia Cas. & Sur. Co. v. Woodcraft by MacDonald, 315 Ga. App. 331	366+1	The right of subrogation can arise from either equity, contract, which is referred to as "conventional subrogation," or statute.	Can the right of subrogation arise from contract?	Subrogation - Memo 204 - RM C.docx	ROSS-003309373-ROSS-003309374
People v. Steiniger, 142 A.D.3d 1320	352H+190	Sexual gratification, as element of first-degree sexual assault of a minor, may be inferred from the sexual nature of defendant's actions. McKinney's Penal Law S 130.65(3).	Can sexual gratification be inferred from the defendants action?	Sex Offence - Memo 108 - RK_57665.docx	ROSS-003310409-ROSS-003310411
Absher v. AutoZone, 164 Cal. App. 4th 332	172H+1692	Statute prohibiting a business from requiring personal identification information as part of "any credit card transaction" does not apply to return in exchange for a reversal of the original credit card purchase transaction. West's Ann.Cal.Civ.Code S 1747.08(a).	May merchants require or request the taking or recording of personal identification information from the cardholder for a credit card transaction?	Consumer Credit - Memo 8 - RK.docx	ROSS-003311324-ROSS-003311325
Johnson Lumber & Supply Co. v. Byron, 113 So. 2d 577	83E+412	Generally, courts will not inquire into adequacy of consideration in transaction between competent parties for discount of note.	"Can court inquire into adequacy of considerations, regarding bills and notes? "	Bills and Notes- Memo 676-PR_57906.docx	ROSS-003311723
Abbas v. Foreign Policy Grp., 975 F. Supp. 2d 1	237+6(1)	Falsity and defamatory meaning are distinct elements of defamation claim and are considered separately under District of Columbia law.	Are falsity and defamatory meaning considered separately from each other?	Libel and Slander - Memo 176 - RK.docx	ROSS-003312293-ROSS-003312294
Castle v. Mason, 24 Ohio Dec. 383	260+86	The state has full power to enact proper laws for the inspection of oils, gasoline, petroleum ether, and like substances.	Can the state Legislature enact laws for inspection or regulation in relation to petroleum oils or its products?	Inspection - Memo 18 - SH.docx	ROSS-003314115-ROSS-003314116
Messmer v. State Farm Cty. Mut. Ins. Co. of Texas, 972 S.W.2d 774	307A+501	Plaintiff's right to nonsuit is absolute and trial judge has no discretion to refuse to grant dismissal.	Is a plaintiffs right to nonsuit an absolute one?	Pretrial Procedure - Memo # 1107 - C - CK.docx	ROSS-003314382-ROSS-003314383
Bell v. City of Winter Park, Fla., 745 F.3d 1318	399+1	Municipal ordinance, allowing person residing in a dwelling unit to post "no loitering" sign and allowing city officer to enforce such prohibition against loitering within 50 feet of dwelling, on its face violated free speech rights, in that ordinance permitted private citizens to have municipality regulate speech on traditional public fora for any reason, and it provided no standards for enforcement, leaving officers free to enforce prohibition on basis of content or viewpoint of an individual's speech. U.S.C.A. Const.Amend. 1.	"Can an officer enforce a posted ""no loitering"" sign?"	Vagrancy - Memo 16 - SB.docx	ROSS-003315498-ROSS-003315499

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Robinson v. Quicken Loans Inc., 988 F. Supp. 2d 615	308+19	The burden of proving an agency relationship under West Virginia law rests upon him who alleges the existence of the agency; however, once a prima facie showing of the agency relationship has been made, a principal denying agency must show that the principal neither controlled, nor had the right to control, the alleged agent's work.	Whom does the burden of proving agency rest upon?	Principal and Agent - Memo 490 - KK_62693.docx	ROSS-003319245-ROSS-003319246
Dryolin Corp. v. Zwicke, 17 N.Y.S.2d 974	83E+481	Generally motives influencing the assignment of a note, or the consideration, do not affect validity of assignment as against debtor.	Does the motive influencing an assignment affect the validity of an assignment?	Bills and Notes - Memo 1433 - RK_63512.docx	ROSS-003320693
Town of Hustisford v. Knuth, 190 Wis. 495	200+86	Abutting owners may make such reasonable use of fee to highway as does not interfere with public right.	Who does the fee to a highway remain with?	Highways - Memo 437 - RK_66338.docx	ROSS-003323580-ROSS-003323581
Coup v. Scottsdale Plaza Resort, 823 F. Supp. 2d 931	170B+3053	Generally, district courts apply state contract law in determining the enforceability of an arbitration agreement that falls within the ambit of the Federal Arbitration Act (FAA). 9 U.S.C.A. S 1.	Does the Federal Arbitration Act (FAA) preempt state law defenses that apply only to arbitration?	Alternative Dispute Resolution - Memo 336 - RK.docx	ROSS-003324238-ROSS-003324239
Osterman v. Baber, 714 N.E.2d 735	366+1	Equitable subrogation is a highly favored doctrine, which is to be given a liberal application.	Is subrogation a highly favored doctrine that demands liberal application?	Subrogation - Memo 256 - VP C.docx	ROSS-003324720-ROSS-003324721
United States v. One (1) 43 Foot Sailing Vessel Winds Will, License O.N. 531317/U.S. & Equip., 405 F. Supp. 879	221+138	No nation may exercise sovereignty over the waters of the high seas.	Can any nation exercise sovereignty over the waters of the high seas?	International Law - Memo # 8 - C - LK.docx	ROSS-003324907-ROSS-003324908
Gregoire v. Enterprise Marine Services, 38 F. Supp. 3d 749	16+2	The basis for jurisdiction when a suit is brought in admiralty or under "saving to suitors" clause in federal court also may affect the availability of forums to the suitor; when the matter proceeds in admiralty alone, federal admiralty jurisdictional statute provides exclusive jurisdiction to hear any matter in admiralty, but when a maritime matter proceeds on the law side of the court under the "saving to suitors" clause, courts have traditionally determined the suitor must demonstrate another source of jurisdiction exists, such as diversity jurisdiction. 28 U.S.C.A. SS 1332, 1333.	Is a Federal courts admiralty jurisdiction exclusive to those maritime causes of action begun and carried on as proceedings in rem?	04060.docx	LEGALEASE-00077235-LEGALEASE-00077237
AT&T Commc'ns of the Sw. v. Sw. Bell Tel. Co., 86 F. Supp. 2d 932	372+870(2)	State commission's arbitration of interconnection agreement between local exchange carrier (LEC) and competitor, pursuant to Telecommunications Act, was sui generis proceeding, and therefore no state procedural law was controlling. Telecommunications Act of 1996, 47 U.S.C.A. S 252.	Is arbitration a sui generis proceeding?	Alternative Dispute Resolution - Memo 3 - VP.docx	LEGALEASE-00000097-LEGALEASE-00000099
First Bank & Tr. v. Novak, 12 Kan. App. 2d 407	38+58	Restriction against assignment is restraint on alienation, and as such it is strictly construed against party urging restriction.	Are restrictions on assignments strictly construed?	000090.docx	LEGALEASE-00115503-LEGALEASE-00115504
SCA Servs. v. Transportation Ins. Co., 419 Mass. 528	217+1000	Basic purpose of insurance is to protect against fortuitous events and not against known certainties; parties wager against occurrence or nonoccurrence of specified event, and carrier insures against risk, not certainty.	Does insurance provide protection against known certainties?	000183.docx	LEGALEASE-00115579-LEGALEASE-00115581
Arrow Master v. Unique Forming Ltd., 12 F.3d 709	277+1	Under Illinois law, purpose of notice provision is to ensure that party is informed and message was delivered.	What is the purpose of the notice provision under the law?	000278.docx	LEGALEASE-00115570-LEGALEASE-00115571

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DeCespedes v. Prudence Mut. Cas. Co. of Chicago, Ill., 193 So. 2d 224	38+31	An assignment generally refers to or connotes a voluntary act of transferring an interest.	Will an assignment which is the transfer of an interest be voluntary in nature?	Assignments - Memo 7 - MS.docx	LEGALEASE-00000467-LEGALEASE-00000468
In re Marriage of Epstein, 24 Cal. 3d 76	253+408	Husband and wife assume mutual obligation of support upon marriage, and this obligation is not conditioned on existence of community support or income but, in fact, upon exhaustion of community property or income, spouse must utilize his or her separate property to provide for the support of the other. West's Ann.Civ.Code, SS 242, 5100, 5132.	Will the courts consider the spouses duty of support as mutual?	Marriage and Cohabitation - Memo 2 - RM.docx	LEGALEASE-00000599-LEGALEASE-00000600
Dawkins v. Fields, 345 S.C. 23	228+185.1(1)	For summary judgment purposes, a verified pleading is equivalent to an affidavit, provided it meets requirements as to its form. Rules Civ.Proc., Rule 56(e).	Can a verified complaint be treated as an affidavit?	003798.docx	LEGALEASE-00115833-LEGALEASE-00115834
State v. Dunbar, 361 S.C. 240	21+1	An affidavit differs from an oath in that an "affidavit" consists of statements of fact which is sworn to as the truth, while an "oath" is a pledge.	Is there any difference between an affidavit and an oath?	07334.docx	LEGALEASE-00077597-LEGALEASE-00077598
United States v. Turner, 28 F.3d 981	181+10	Fraudulently filling out stolen, blank money orders was "altering", as needed to support federal conviction for altering money orders. 18 U.S.C.A. S 500.	Can fraudulently filling out blank money orders be considered as altering the orders?	003824.docx	LEGALEASE-00115799-LEGALEASE-00115800
Zinner v. Louis Meyers & Son, 181 Misc. 344	307A+61	A "deposition" is testimony given under oath, pursuant to notice, upon oral or written interrogatories, and with opportunity for cross-examination.	Can an affidavit be subjected to cross examination?	003883.docx	LEGALEASE-00115926-LEGALEASE-00115927
Grieve v. Mullaly, 211 Cal. 77	38+4	An offer to contract is purely personal to offeree, and not assignable.	"Is an offer to contract purely personal to offeree, and not assignable?"	003887.docx	LEGALEASE-00115898-LEGALEASE-00115899
Goodman, Boyne & Sherwood Co. v. Pence, 21 Neb. 459	257+202	A mere inchoate right to a mechanic's lien is not assignable. Such lien passes with an assignment of the debt only when it has been perfected under the statute.	Is mechanics lien assignable?	Assignments - Memo 25 - AKA.docx	ROSS-003285177-ROSS-003285180
Newton v. Bullard, 181 Ga. 448	307+32	Deed providing that, if grantee died without children, premises go to such persons as grantee might by will appoint held to give grantee life estate with power to appoint remainderman exercisable by will only, so that attempt to exercise power of appointment by deed was ineffectual and gave appointee no transferable interest. Code 1933, SS 29-103, 96-102.	What happens when a life tenant conveys a greater estate than they possess?	Life Estate - Memo 12- JS.docx	LEGALEASE-00001207-LEGALEASE-00001209
FLCT, Ltd. v. City of Frisco, 493 S.W.3d 238	148+82	Generally, a property owner has no vested right, as required to support an inverse condemnation claim, to use its property in a certain way without restriction. Tex. Const. art. 1, S 17.	Which law creates and defines property rights?	003044.docx	LEGALEASE-00116176-LEGALEASE-00116177
Montgomery v. Samory, 99 U.S. 482	315+22	Title to real estate is governed by the laws of the place where it is situated.	Which law governs the title to real estate?	Property - Memo 5 - ANG.docx	ROSS-003284882-ROSS-003284884
Bus. Loan Ctr. v. Nischal, 331 F. Supp. 2d 301	315+22	Title to real estate is governed by laws of place where it is situated.	Which law governs the title to real estate?	003046.docx	LEGALEASE-00116185-LEGALEASE-00116187
Exxon Corp. v. Central Gulf Lines, 500 U.S. 603	16+13	In determining whether admiralty jurisdiction exists over agency contracts, lower court should look to subject matter of agency contract and determine whether services performed under contract are maritime in nature. 28 U.S.C.A. S 1333(1).	"Can a contract, that falls outside the admiralty jurisdiction of the United States, give rise to a maritime lien?"	004043.docx	LEGALEASE-00116287-LEGALEASE-00116289

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In re Antill Pipeline Construction Company, 866 F. Supp. 2d 563	16+1.20(6)	Louisiana statute prohibiting all recovery to operator of watercraft found to have been under influence of alcohol at time of accident and partially at fault impermissibly interfered with maritime law's uniformity in its settled comparative fault allocation scheme in wrongful death cases, and thus did not apply to bar estate and heirs of driver of recreational fishing vessel who died in allision with barge and tug units in Louisiana territorial waters from recovering against barge owner under general maritime law. LSA-R.S. 9:2798.4.	Is an action for wrongful death available under the general maritime law?	004094.docx	LEGALEASE-00116171- LEGALEASE-00116173
Greenwood v. CompuCredit Corp., 615 F.3d 1204	25T+111	The act of suing in a court of law is distinctly different from arbitration.	Is the act of suing in a court of law the same as arbitration?	004187.docx	LEGALEASE-00116264- LEGALEASE-00116265
In re Grand Jury Subpoena dated Aug. 9, 2000, 218 F. Supp. 2d 544	311H+168	The client is the holder of the attorney-client privilege and can waive it either expressly or through conduct.	Can a client waive attorney-client privilege?	Privileged Communications and Confidentiality - Memo 5 - VP.docx	LEGALEASE-00001609- LEGALEASE-00001610
Kaluom v. Stolt Offshore, 504 F.3d 511	348+18	Requirement that, in order for seamen on American vessels to recover penalty wages based on master's failure to make wage payments as required in the Seamen's Wage Act, vessel must be on foreign or intercoastal voyage, or on voyage between port in one state in the United States and port in another nonadjoining state, was also applicable to seamen on foreign vessels, following amendment of the Seamen's Wage Act to make penalty wage provisions applicable to seamen on foreign vessels "when in a harbor of the United States"; amendments expanding scope of penalty provisions to make them applicable to seamen on foreign vessels could not be read in isolation from voyage requirements, so as to accord seamen on foreign vessels better treatment than seamen on American vessels, contrary to Congress' intent in enacting amendments to equalize rights of foreign and United States seamen. 46 U.S.C.A. SS 10301(a), 10313(g, i), 10501(a), 10504(c, e).	What is the penalty for withholding a seamans wages without sufficient cause?	004112.docx	LEGALEASE-00116335- LEGALEASE-00116336
Bevis v. Illinois Pollution Control Bd., 289 Ill. App. 3d 432	1.49E+17	Pollution Control Board's (PCB) authority is limited by its enabling statute.	"Is the authority of a statutory administrative agency, like the Pollution Control Board, limited by its enabling statute?"	Environmental Law - Memo 37 - AKA.doc	LEGALEASE-00002134- LEGALEASE-00002135
Browning-Ferris v. Dep't of Env'tl. Res., 143 Pa. Cmw'lth. 243	1.49E+17	In the context of intervention before Environmental Hearing Board, the phrase "interested party" means any entity who will either gain or lose by direct operation of Board's ultimate determination. 35 P.S. S 7514(e).	"Legally, what does the phrase any interested party refer to?"	Environmental Law - Memo 41 - AKA.doc	LEGALEASE-00002144- LEGALEASE-00002145

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Morris v. Marshall, 172 W. Va. 405	172H+216	Lending of money from its own assets by private corporation which had no depositors did not constitute banking business and did not make corporation subject to banking statutes so as to entitle plaintiffs to a permanent injunction preventing trustee's foreclosure of sale on real property belonging to them on basis that loans they guaranteed on behalf of corporation and on which they gave deeds of trust as security violated the banking laws. Code, 31A-1-2(b, c), 31A-4-13, 31A-4-14.	Can a corporation engaged in loaning its own money be deemed as engaged in the banking business?	004508.docx	LEGALEASE-00116609- LEGALEASE-00116611
Prime Prod. v. S.S.I. Plastics, 97 S.W.3d 631	50+1	Bailment generally does not create formal, fiduciary relationship between bailee and bailor.	Is the relationship between a bailor and a bailee a fiduciary relationship?	Bailment - Memo 12 - ANG.docx	ROSS-003283688-ROSS-003283689
McAdams v. McAdams, 267 So. 2d 908	253+756	Judgment of separation dissolves community and vests each of parties with an undivided one-half interest therein.	Does the community property dissolve after separation?	Marriage and Cohabitation - Memo 23 - RK.docx	LEGALEASE-00002370- LEGALEASE-00002371
E.P.A. v. Pollution Control Bd., 308 Ill. App. 3d 741	1.49E+18	Quasi-legislative determinations are exercises of the Pollution Control Board's rulemaking powers.	"Does an administrative agency, such as the Pollution Control Board, perform a quasi-legislative function while exercising its rule-making power?"	Environmental Law - Memo 44 - AKA.doc	LEGALEASE-00002496- LEGALEASE-00002498
Partington v. Houck, 840 F. Supp. 2d 236	258A+1480	Navy Judge Advocate General (JAG) was not an agency subject to Administrative Procedure Act (APA) review. 5 U.S.C.A. S 701(b)(1).	Is Judge Advocate General (JAG) an agency under the Administrative Procedure Code?	004590.docx	LEGALEASE-00116950- LEGALEASE-00116951
McConico v. Alabama Dep't of Corr., 893 So. 2d 577	284+55.1	The Board of Pardons and Paroles is a legislative agency, rather than an administrative agency.	Is Board of Pardons and Paroles an administrative agency?	004596.docx	LEGALEASE-00117032- LEGALEASE-00117033
Hossain v. Rauscher Pierce Refsnes, 46 F. Supp. 2d 1164	50+1	Under Kansas law, "bailee" is person who receives possession or custody of property under circumstances constituting bailment; "bailor" is person from whom property is thus received.	Does the bailee have custody of property?	06131.docx	LEGALEASE-00079109- LEGALEASE-00079110
Nissan N. Am. v. Haislip, 155 S.W.3d 104	50+2	The type of bailment which constitutes a loan is a bailment for the sole benefit of the bailee; it is an uncompensated lending in which the bailee is the sole beneficiary.	Is a loan a form of bailment?	004630.docx	LEGALEASE-00116933- LEGALEASE-00116934
Salts v. State, 984 So. 2d 1050	146+5	Embezzlement requires specific intent, even though the statute does not mention intent. West's A.M.C. S 97-23-25.	Is it necessary that embezzlement require specific intent?	004641.docx	LEGALEASE-00116783- LEGALEASE-00116784
Ten Broeck Dupont v. Brooks, 283 S.W.3d 705	37+616	Negligence and assault and battery claims are mutually exclusive.	Are negligence and assault and battery claims mutually exclusive?	Negligence - Memo 20 - VP.docx	ROSS-003284968-ROSS-003284969
Rooks v. Tenet Healthsystem GB, 292 Ga. App. 477	302+2	The Civil Practice Act encourages liberality of pleading. West's Ga.Code Ann. S 9-11-17(a).	Does the Civil Practice Act encourage liberality of pleading?	Pleading - Memo 21 - VP.docx	ROSS-003288057-ROSS-003288059
Deering v. Keever, 282 Ga. 161	302+2	Civil Practice Act generally advances liberality of pleading. West's Ga.Code Ann. S 9-11-15.	Does the Civil Practice Act encourage liberality of pleading?	004849.docx	LEGALEASE-00116986- LEGALEASE-00116988
Slack v. Bryan, 299 Ky. 132	50+2	A "gratuitous loan", or as called in civil law a "depositum", occurs where custody, as opposed to service, is chief purpose of loan.	What is a depositum?	004943.docx	LEGALEASE-00116976- LEGALEASE-00116977
Purolator Sec. v. Citizens Nat. Bank of Waco, 546 S.W.2d 935	50+17	Ordinarily, bailee is not liable for loss of property attributable to fault or negligence of bailor; such rule applies in cases of misdelivery by bailee.	"Will the negligence of the bailor, contributing to the loss, exonerate the bailee from liability?"	Bailment - Memo 38 - RK.docx	LEGALEASE-00002950- LEGALEASE-00002951
United States v. Cortes, 757 F.3d 850	164T+4	Congress intended the Hobbs Act to be broadly construed. 18 U.S.C.A. S 1951.	Did Congress intend the Hobbs Act to be broadly construed?	Extortion - Memo 8 - JS.docx	ROSS-003289466-ROSS-003289468

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
First Am. Title Ins. Co. v. Broadstreet, 260 Ga. App. 705	401+1.5	A judgment or order issued by a court without venue is void.	Is a judgment of a trial court without venue void?	005173.docx	LEGALEASE-00117260-LEGALEASE-00117261
In re Team Rocket, 256 S.W.3d 257	401+46	The plaintiff gets the first choice of venue by filing suit, but the defendant may challenge that venue selection, and a court must transfer an action to another county of proper venue if the county in which the action is pending is not a proper county. V.T.C.A., Civil Practice & Remedies Code S 15.063(1).	Is the plaintiff or the defendant given the first choice of venue?	Venue - Memo 19 - RK.docx	ROSS-003312849-ROSS-003312851
People v. Poindexter, 138 Mich. App. 322	164T+8	Elements of extortion are: (1) a communication, (2) threatening accusation of any crime or offense or any injury to the person or property or mother, father, husband, wife, or child of another, (3) with intent thereby to extort money or pecuniary advantage as to compel the person so threatened to do or refrain from doing an act against his will. M.C.L.A. S 750.213.	What are the elements of extortion?	Extortion- Memo 10 - JS.docx	LEGALEASE-00003700-LEGALEASE-00003701
United States v. Anderson, 989 F.2d 310	350H+1285	Defendant's state conviction for attempting to get money by threatening harm, being only an attempt, was not "extortion" and, thus, was not crime of violence for purposes of Armed Career Criminal Act; Hobbs Act defines extortion as obtaining of property, not attempt to do so. 18 U.S.C.A. SS 924(e)(2)(B)(ii), 1951.	How is extortion defined?	005064.docx	LEGALEASE-00117396-LEGALEASE-00117397
Pace v. Pace, 160 S.W.3d 706	253+840	Proceeds from the sale of separate property are the separate property of the spouse whose property was sold.	Are proceeds from the sale of a spouses separate property considered as separate property?	Marriage and Cohabitation- Memo 43 - JS.docx	LEGALEASE-00003884-LEGALEASE-00003885
McLaughlin v. Johnson, 46 Ill. 163	315+538	A. lent to B., for use upon B.'s land, the rails in a piece of fence standing upon A.'s land. Held that, upon the sale by A. to B. of the land where the fence stood, the rails were fixtures, and passed under the deed as a part of the realty.	"Does a rail, when made up into a fence upon the land, become a part of the realty?"	Property - Memo 18 - JS.docx	ROSS-003284802-ROSS-003284803
Pace v. Pace, 160 S.W.3d 706	253+840	Proceeds from the sale of separate property are the separate property of the spouse whose property was sold.	Are proceeds from the sale of a spouses separate property considered as separate property?	005113.docx	LEGALEASE-00117329-LEGALEASE-00117330
Davis v. Berwind Corp., 547 Pa. 260	313A+113	It is not purpose of strict liability provision of Restatement (Second) of Torts to impose absolute liability on product manufacturer, as manufacturer is guarantor of its product and not insurer. Restatement (Second) of Torts S 402A.	Is manufacturer a guarantor of its product?	000655.docx	LEGALEASE-00117564-LEGALEASE-00117565
Dambacher by Dambacher v. Mallis, 336 Pa. Super. 22	313A+119	In products liability case, the defendant manufacturer or supplier of the product is not an insurer but effectively the guarantor of his product's safety and thus liability may be imposed only in proof that the product lacked an element necessary to make it safe for its intended use.	Is manufacturer a guarantor of its product?	Products Liability - Memo 21- JS.docx	LEGALEASE-00004229-LEGALEASE-00004230
Colonial Pipeline Co. v. Morgan, 263 S.W.3d 827	15A+1013	Provision of Uniform Administrative Procedures Act (UAPA) requiring prospective plaintiff to make request for declaratory order with agency before bringing action for declaratory judgment in Chancery Court violated state constitution's separation-of-powers clause to extent that it required administrative review prior to bringing a direct constitutional challenge to the facial validity of a statute in the Chancery Court. West's T.C.A. Const. Art. 2, S 2; West's T.C.A. S 4-5-225.	Do administrative agencies have the authority to determine the facial validity of a statute?	Administrative Law - Memo 56 - RK.docx	ROSS-003298241-ROSS-003298243

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People v. Valdez, 126 Cal. App. 4th 575	203+503	Although a fetus is not a human being within the meaning of the murder statute, fetal life is entitled to the same protection as human life, except where the mother's paramount privacy interests are at stake. West's Ann.Cal.Penal Code S 187(a).	Is a fetus a human being within the meaning of murder or homicide statutes?	Homicide - Memo 19 - RK.docx	ROSS-003298092-ROSS-003298093
People v. Hansen, 9 Cal. 4th 300	203+609	Offense of discharging firearm at inhabited dwelling house did not merge with resulting homicide even if offense was integral part of homicide and, thus, commission of offense supported conviction of second-degree felony murder; use of firearm offense as predicate felony for felony-murder rule would not elevate all felonious assaults to murder or otherwise subvert legislative intent behind gradation of homicide offenses. West's Ann.Cal.Penal Code S 246.	Can a homicide occur absent an assault?	000430.docx	LEGALEASE-00117746-LEGALEASE-00117747
Melcher v. F.C.C., 134 F.3d 1143	372+1037	Denial by Federal Communications Commission (FCC) of telecommunications companies' requests for waiver of rules formerly governing use of spectrum currently designated for Local Multipoint Distribution Service (LMDS) was not abuse of discretion, in view of large number of waiver requests and presence of common issues that could better be addressed in rulemaking proceeding.	What is the burden upon an applicant who appeals the denial of a request for a waiver of an agency rule?	000309.docx	LEGALEASE-00117973-LEGALEASE-00117974
United States v. Hamilton, 499 F.3d 734	146+23	If a defendant embezzles from his employer he is not excused from criminal liability just because he had an honest intention of replacing the money, maybe with interest.	Is intent to repay a defense to embezzlement?	Embezzlement - Memo 43 - VP.docx	LEGALEASE-00004672-LEGALEASE-00004673
Bell v. State, 1 N.E.3d 190	203+908	Intent to kill may be inferred from the use of deadly weapon. Vernon's Ann.P.C. art. 45.	Can the intent to commit murder be presumed by the deadly weapon used?	Homicide - Memo 27 - RK.docx	LEGALEASE-00004938-LEGALEASE-00004939
Bldg. Indus. Elec. Contractors Ass'n v. City of New York, 678 F.3d 184	231H+968	Market participant exception to NLRA preemption does not immunize from scrutiny any choice a state makes about expending state funds on state projects; state cannot use its spending power to regulate labor. U.S.C.A. Const. Art. 6, cl. 2.	Can the state use its spending power for regulating labor relations?	001430.docx	LEGALEASE-00117800-LEGALEASE-00117801
Crow v. State, 55 Tex. Crim. 200	203+1388	Pen.Code 1895, art. 717 (Vernon's Ann.P.C. art. 1261), provides that the instrument by which a homicide is committed is to be considered in judging of intent, and, if the instrument be one not likely to produce death, it is not to be presumed that death was designed, unless it appears from the manner in which the instrument was used. Article 719 (1263), providing that where a homicide occurs under sudden passion, but by the use of means not in their nature calculated to produce death, the person killing is not deemed guilty of the homicide, unless there was an intention to kill, applies to all homicides, except where the injury is inflicted in a cruel manner, or a manner showing an evil disposition or a design to kill. Held that, in a prosecution for murder alleged to have been committed during a sudden difficulty, by striking with a baseball bat, which is not a deadly weapon per se, where there was evidence that accused did not intend to kill, a failure to charge on his intent in striking was error.	Is a baseball bat considered to be a deadly weapon?	000940.docx	LEGALEASE-00118160-LEGALEASE-00118162

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Cortiza v. Rosenblat, 291 So.2d 425	289+732	A partnership is a separate legal entity from its partners and has the procedural capacity to be sued in its own name. LSA-C.C.P. art. 737.	Can a partnership be sued in its own name?	Partnership - Memo 47 - TH.docx	ROSS-003283657-ROSS-003283658
Estate of Prather v. Sherman Hosp. Sys., 2015 IL App (2d) 140723	401+52(1)	When a plaintiff chooses his home forum or the site of the accident or injury, the choice of forum is most likely convenient; however, when a plaintiff is foreign to the chosen forum and when the action giving rise to the litigation did not occur in the chosen forum, the plaintiff's choice of forum is accorded less deference.	Is the plaintiffs choice of venue entitled to the same weight in all cases?	Venue - Memo 31 - TH.docx	LEGALEASE-00005424-LEGALEASE-00005426
Seaboard Coast Line R. Co. v. Nat'l Rail Passenger Corp., 554 F.2d 657	25T+113	Policy of the Federal Arbitration Act is to encourage arbitration and to relieve congestion in the courts. 9 U.S.C.A. S 1 et seq.	What is the policy behind the Federal Arbitration Act?	Alternative Dispute Resolution - Memo 186 - RK.docx	ROSS-003298745-ROSS-003298746
Okanogan Highlands All. v. Williams, 236 F.3d 468	209+117	Federal agencies owe fiduciary responsibility to Native American tribes.	Do federal agencies hold a fiduciary relationship with Indian tribes?	019436.docx	LEGALEASE-00118320-LEGALEASE-00118321
Pub. Utilities Comm'n of R.I. v. Attleboro Steam & Elec. Co., 273 U.S. 83	83+62.1	Sale of electric current to purchaser in another state held "interstate commerce."	Is the transmission of electric current from one state to another an interstate commerce subject to the Commerce Clause?	Electricity - Memo 7 - RM.docx	ROSS-003295761-ROSS-003295762
Hall v. Luby Corp., 232 N.J. Super. 337	315+451	Term "fixture" and phrase "improvement to real property" are not synonymous; a fixture by definition is an improvement to real property, but an improvement to real property need not be a fixture.	Are fixtures real property?	Property - Memo 33 - RM.docx	ROSS-003309458-ROSS-003309459
Tuttle v. Henderson, 628 P.2d 1275	76D+76	Controlling factor in custody proceedings is the best interest and welfare of the child.	What is the controlling factor in child custody cases?	001350.docx	LEGALEASE-00118444-LEGALEASE-00118445
State v. E.J.F., 999 So. 2d 224	207+4	The date of the offense is not a specific element of aggravated incest. LSA-R.S. 14:78.1 (2005).	Is the date of the offense a specific element of aggravated incest?	Incest - Memo 36 - RM.docx	ROSS-003325254-ROSS-003325255
Webb v. Allington, 27 Mo.App. 559	289+666(2)	A partnership engaged in running a crusher for crushing and cleaning zinc ore being a nontrading partnership, one of the partners could not bind the other by a note executed by him in the partnership name, without prior authority therefor or evidence that it was customary so to do.	Can a partner in a non-trading partnership bind a co-partner by a note drawn by him in the firm name?	Partnership - Memo 49 - RK.docx	ROSS-003287273-ROSS-003287274
Adams v. Long, 114 Ill.App. 277	289+666(2)	A partner in a trading firm has prima facie authority to bind the firm by drawing, endorsing or accepting bills in the firm name for partnership purposes.	Can a partner in a non-trading partnership bind a co-partner by a note drawn by him in the firm name?	001848.docx	LEGALEASE-00118772-LEGALEASE-00118773
Lewis v. Jackson Energy Co-op. Corp., 189 S.W.3d 87	317A+101	A public utility may not accomplish indirectly what it is forbidden to do directly.	Can a public utility accomplish indirectly what it is disallowed to do directly?	001611.docx	LEGALEASE-00119041-LEGALEASE-00119042
Durden v. State, 250 Ga. 325	203+506	Physical injury is not required for criminal responsibility for homicide.	Is physical injury required for criminal responsibility for homicide?	001730.docx	LEGALEASE-00118869-LEGALEASE-00118870
Johnson v. Calado, 159 Wis. 2d 446	249+52	General expenses in defending lawsuit, loss of time, and diminution of quality of life are not special damages flowing from interference with personal property, such as must be alleged in order to state cause of action for malicious prosecution.	Is special injury or special damages an essential element in a civil malicious prosecution action?	Malicious Prosecution - Memo 11 - MS.docx	LEGALEASE-00006887-LEGALEASE-00006889
Fisher v. GE Med. Sys., 276 F. Supp. 2d 891	25T+114	"Arbitration" in the Federal Arbitration Act (FAA) is a broad term that encompasses many forms of dispute resolution. 9 U.S.C.A. S 2.	Should arbitration be defined broadly under the Federal Arbitration Act?	002132.docx	LEGALEASE-00119092-LEGALEASE-00119093

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Truly Nolen of Am. v. Superior Court, 208 Cal. App. 4th 487	106+91(1)	Court of Appeal was bound as a matter of stare decisis to follow California Supreme Court decision holding in Gentry v. Superior Court, that class arbitration waivers in employment agreements could not be enforced if class arbitration would be a significantly more effective means of vindicating rights, notwithstanding United States Supreme Court's holding in AT & T Mobility LLC v. Concepcion, which overruled an earlier California Supreme Court decision that held that class arbitration waivers in arbitration provisions of consumer contracts were unconscionable; although the United States Supreme Court's overruling of earlier decision under the Federal Arbitration Act (FAA) implicitly disapproved the reasoning of the later decision, the United States Supreme Court did not directly address the precise issue presented in the later case, whose conclusion was based on different theoretical grounds. 9 U.S.C.A. S 1 et seq.	Does the Federal Arbitration Act (FAA) require courts to honor parties expectation?	002182.docx	LEGALEASE-00119142- LEGALEASE-00119144
Int'l Union of Operating Engineers, Local 150, AFL-CIO v. Ward, 563 F.3d 276	170B+2214	Federal causes of action, as will support federal question jurisdiction, may be created either expressly or by implication. 28 U.S.C.A. S 1331.	How can a federal cause of action be created?	Action - Memo 13 - MS.docx	ROSS-003308674-ROSS-003308675
Hendrick v. Caldwell, 232 F. Supp. 3d 868	13+1	A "cause of action" is the set of operative facts which, under the substantive law, gives rise to a right of action.	What is a cause of action?	Action - Memo 19 - MS.docx	ROSS-003328922-ROSS-003328924
First Advantage Background Servs. Corp. v. Private Eyes, 569 F. Supp. 2d 929	237+130	Trade libel is more like unfair competition than true libel and is not actionable as defamation, but this difference does not diminish the pleading requirements in a trade libel claim.	Is trade libel actionable as defamation?	Libel and Slander - Memo 119 - ANG.docx	ROSS-003282187-ROSS-003282188
Microtec Research v. Nationwide Mut. Ins. Co., 40 F.3d 968	237+133	Trade libel is more akin to unfair competition than true libel and it is not actionable as defamation under California law.	Is trade libel actionable as defamation?	002088.docx	LEGALEASE-00119381- LEGALEASE-00119382
Rosen v. Kessler, 145 Cal. App. 2d 676	401+4	Action for damages for refusal of defendant to carry out terms of an alleged agreement entered into between plaintiff and defendant, is a transitory action. West's Ann.Code Civ.Proc., S 395.	Is a cause of action seeking damages transitory?	Venue - Memo 51- ANG.docx	ROSS-003312028-ROSS-003312030
Howard v. Commonwealth, 484 S.W.3d 295	207+4	Incest statute criminalizes sexual intercourse between a stepparent and a stepchild, regardless of age and consent. Ky. Rev. Stat. Ann. S 530.020(1).	Does incest prohibit sexual relationships between step-children and step-parents?	Incest - Memo 40 - JS.docx	ROSS-003324693-ROSS-003324694
State v. Buck, 92 Or. App. 130	207+2	Difference in treatment accorded by incest statute to those who engage in intercourse with person while married to that person's parent as opposed to those who engage in sexual intercourse with person without being married to that person's parent was rationally related to legitimate governmental purpose of protection of family, and did not deny equal protection of the laws to stepfather who was convicted of incest with adult stepdaughter. ORS 163.505(1), 163.525, 163.525(1); U.S.C.A. Const.Amend. 14; Const.Art. 1, S 20.	Does incest prohibit sexual relationships between step-children and step-parents?	Incest - Memo 40 - JS.docx	LEGALEASE-00007545- LEGALEASE-00007546
Brown v. Collins, 402 F.2d 209	237+38(1)	Statement to be privileged as communication preliminary to a judicial proceeding must be made in character of a litigant.	What is a privileged communication?	Libel and Slander - Memo 114 - JS.docx	ROSS-003298776-ROSS-003298777

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On-Line Power v. Mazur, 149 Cal. App. 4th 1079	231H+2178	Labor Code provisions ensuring an employee's right to payment of wages applied to salaried corporate executive; taken as a whole, these provisions indicated that for purposes of the Labor Code, the salaries of executives were protected wages. West's Ann.Cal.Labor Code SS 200, 201, 202, 203, 204, 218.5.	"Does the Labor Code contain provisions to ensure that employees receive their full wages at specified intervals while employed, as well as when they are fired or quit?"	003246.docx	LEGALEASE-00119192- LEGALEASE-00119193
E.E.O.C. v. Dowd & Dowd, Ltd., 736 F.2d 1177	78+1111	Shareholders in professional corporation engaged in practice of law were not "employees" of corporation for purposes of section of Civil Rights Act defining "employer" as a person engaged in an industry affecting commerce who has 15 or more employees, and thus corporation was not an "employer" subject to Act because it employed less than 15 nonshareholders. Civil Rights Act of 1964, S 701(b), 42 U.S.C.A. S 2000e(b).	Who is an employer?	003260.docx	LEGALEASE-00119236- LEGALEASE-00119237
Denver Joint Stock Land Bank v. Bd. of Comm'rs of Elbert Cty., 105 Colo. 366	148+145(1)	The benefits which may be set off against damages, where part of a tract of land is condemned, are those accruing to the residue of the tract from the construction of the improvement, but such as are only conjectural or speculative may not be thus set off.	What is a benefit under the eminent domain statute?	001890.docx	LEGALEASE-00119649- LEGALEASE-00119650
Harris Cty. Flood Control Dist. v. Kerr, 445 S.W.3d 242	148+2.1	Proximate cause is an essential element of a takings case; without causation, there is no taking.	Is proximate cause an essential element in takings claim?	001898.docx	LEGALEASE-00119670- LEGALEASE-00119671
State v. Bishop, 431 S.W.3d 22	203+511	Corpus delicti of a felony murder does not include the predicate felony; abrogating State v. Wagner, 2011 WL 2893098, and State v. Bough, 2004 WL 50798.	Does corpus delicti of a felony murder include the predicate felony?	00784.docx	LEGALEASE-00081555- LEGALEASE-00081556
City of Pittsburgh v. Pennsylvania Pub. Util. Comm'n, 165 Pa. Super. 519	317A+101	The property of a public utility is private property, but it is also property devoted to public service and is impressed with a public interest.	Is property of a public utility still private property?	001982.docx	LEGALEASE-00119680- LEGALEASE-00119681
Romyn v. Shearson Lehman Bros., 648 F. Supp. 626	25T+414	Claims under the Securities Act and the Securities Exchange Act were not subject to arbitration, despite provision in stock brokerage account agreements providing that any controversy arising out of accounts or transactions should be settled by arbitration, unless unenforceable due to federal or state law, given antiwaiver provisions of the securities acts. Securities Act of 1933, SS 12(2), 15, 17, 15 U.S.C.A. SS 77l (2), 77o, 77q; Securities Exchange Act of 1934, SS 10, 20, 29(a), 15 U.S.C.A. SS 78j, 78t, 78cc(a); 9 U.S.C.A. SS 1-14.	Do the courts consider arbitration agreements arising under the Securities Act as invalid?	Alternative Dispute Resolution - Memo 273 - RK.docx	LEGALEASE-00008263- LEGALEASE-00008264
Kaltwasser v. Cingular Wireless LLC, 543 F. Supp. 2d 1124	25T+117	To determine whether there is preemption under the Federal Arbitration Act (FAA), the court must decide which state's law applies and whether, under the law of the appropriate state, the arbitration provision in the parties' contract is valid and enforceable. 9 U.S.C.A. S 1 et seq.	Does the Federal Arbitration Act apply to contracts involving foreign commerce?	Alternative Dispute Resolution - Memo 285 - RK.docx	ROSS-003283690-ROSS- 003283691
State v. Hutter, 145 Neb. 798	203+525	At common law and under statute dividing crime of murder into murder of first and second degrees, "murder" is unlawful killing of person with malice aforethought, either express or implied. R.S.1943, SS 28-401, 28-402.	Are there different degrees of murder?	05255.docx	LEGALEASE-00082106- LEGALEASE-00082107

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State v. Rumble, 680 S.W.2d 939	203+520	At common law, a homicide was either murder or manslaughter.	Was homicide considered as either manslaughter or murder at common law?	Homicide - Memo 78 - RK.docx	ROSS-003298320-ROSS-003298321
Gibbs v. Chase, 10 Mass. 125	386+3	Proof of any unlawful exercise of authority over goods will support trespass, although without force; as by an attachment, although there was no removal of the property.	Can an unlawful exercise of authority over the goods of another support an action for trespass?	002966.docx	LEGALEASE-00119801-LEGALEASE-00119803
CareFlite v. Office And Prof'l Employees Int'l Union, AFL-CIO, 612 F.3d 314	231H+1526	Helicopter pilot's grievance challenging medical air transportation company's refusal to extend time for him to obtain airline transport pilot certificate (ATP) was minor dispute that was required to be referred to arbitration under Railway Labor Act (RLA), even though his discharge for failing to timely obtain ATP was expressly declared non-grievable in collective bargaining agreement (CBA), where grievance listed provisions of CBA allegedly violated. Railway Labor Act, S 2, 45 U.S.C.A. S 151a.	"If the grievances under the Railway Labor Acts (RLA) mandatory arbitral mechanism are minor disputes, should those be resolved only through the RLA mechanisms?"	Labor and Employment - Memo 63 - VP.docx	ROSS-003297755-ROSS-003297756
White v. Chrysler Corp., 421 Mich. 192	13+1	A common-law cause of action should not be evolved solely or primarily to avoid a statutory limitation.	How do causes of action at common law evolve?	002454.docx	LEGALEASE-00119949-LEGALEASE-00119951
Groves v. Dep't of Corr., 295 Mich. App. 1	30+3226	Whether a party has standing is a question of law subject to review de novo.	Is a party's standing to sue be reviewed de novo?	Action - Memo 54 - MS.docx	ROSS-003312595-ROSS-003312596
Dieden v. Schmidt, 104 Cal. App. 4th 645	366+1	Doctrine of equitable subrogation invokes court's equitable jurisdiction.	Does the doctrine of equitable subrogation invoke a trial court's equitable jurisdiction?	002538.docx	LEGALEASE-00119889-LEGALEASE-00119890
Associated Int'l Ins. Co. v. Scottsdale Ins. Co., 862 F.3d 508	366+1	Texas courts recognize the subrogation doctrine to its fullest extent.	To what extent do courts recognize the subrogation doctrine?	Subrogation - Memo 5 - ANG.docx	LEGALEASE-00008856-LEGALEASE-00008857
Westerbeke Corp. v. Daihatsu Motor Co., 304 F.3d 200	25T+329	District court's decision, to set aside arbitral decision awarding expectancy damages in breach of contract action as having been entered in manifest disregard of principle of New York law that only reliance damages may be awarded for breach of preliminary agreement, did not accord proper deference to arbitrator's determination that defendant had breached contract with contingency rather than preliminary agreement, and itself had to be set aside.	Can arbitrators award punitive damages?	002651.docx	LEGALEASE-00120041-LEGALEASE-00120042
Zimmerman v. Al Jazeera Am., 246 F. Supp. 3d 257	237+23.1	Under District of Columbia law, "publication" is the communication of defamatory matter intentionally or by a negligent act to one other than the person defamed.	What is publication of a defamatory statement?	002907.docx	LEGALEASE-00119921-LEGALEASE-00119922
Milner v. Duncklee, 460 F. Supp. 2d 360	386+7	Under Connecticut law, trespass requires a direct injury to the property itself by force.	Does trespass require a direct injury to the property by force?	Trespass - Memo 72 - TH.docx	ROSS-003297871-ROSS-003297872
Aaron & Turner v. Perret, 22 So. 3d 910	95+54(1)	The cause which will bind parties to a contract, without what a common law court would consider to be consideration, need not have any economic value. LSA-C.C. arts. 1966, 1967.	Can an obligation exist without a lawful cause?	Action - Memo 30 - ANG.docx	ROSS-003285690-ROSS-003285691
Chamber of Commerce of U.S. v. N.L.R.B., 879 F. Supp. 2d 18	15A+1062	Abstaining voter is counted in determining presence of a quorum.	Is an abstaining voter counted when determining the presence of a quorum?	002988.docx	LEGALEASE-00120500-LEGALEASE-00120502
McKeel v. Islamic Republic of Iran, 722 F.2d 582	221+183	United States embassies are not within the territorial jurisdiction of the United States.	Are United States embassies within the territorial jurisdiction of the United States?	002993.docx	LEGALEASE-00120505-LEGALEASE-00120506

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State v. McQuiston, 277 Mont. 397	135H+148	Defendant's convictions for sexual intercourse without consent and incest, based on sexual intercourse between defendant and his adopted daughter, did not violate double jeopardy; incest was distinct and wholly separate offense from sexual intercourse without consent, and each offense required proof of distinct elements that the other did not. U.S.C.A. Const.Amend. 5; MCA 45-5-503, 45-5-507.	Is consent an element of incest?	Incest - Memo 67 - RK.docx	ROSS-003296819-ROSS-003296821
Darden v. State, 206 Ga. App. 400	211+1737(2)	Chastity or nonchastity of victim of statutory rape or incest is not relevant in criminal prosecution for those offenses; thus, defendant accused of statutory rape and incest was not entitled to introduce evidence of sexual relations between victim and another.	Is the chastity of the victim relevant in a prosecution for incest?	003200.docx	LEGALEASE-00120556-LEGALEASE-00120557
Alexander v. State, 126 Tex. Crim. 625	207+8.5	Incest is offense against society in which both parties ordinarily engage with same intent and purpose as principals.	Is incest an offense against society?	Incest - Memo 74 - RK.docx	ROSS-003301758-ROSS-003301759
Winn-Dixie Stores v. Dolgencorp, 746 F.3d 1008	233+531	In Louisiana, a lease contract is not a title document that can give rise to a real obligation; leases convey only a personal right.	Do leases create real obligation?	003290.docx	LEGALEASE-00120477-LEGALEASE-00120478
McClennen v. Commissioner of Internal Revenue, 131 F.2d 165	289+937	In the absence of a controlling agreement in the partnership articles, the death of a partner dissolves the partnership.	Does a partnership get dissolved upon the death of a partner?	Partnership - Memo 81 - RK.docx	ROSS-003296475-ROSS-003296476
Development Specialists v. Akin Gump Strauss Hauer & Feld LLP, 480 B.R. 145	289+926	Under New York law, a partnership can dissolve for several different reasons, including an agreement by the partners to dissolve, the death of a partner, or the decision of a partner to withdraw. N.Y.McKinney's Partnership Law S 62.	What can cause the dissolution of a partnership?	003426.docx	LEGALEASE-00120634-LEGALEASE-00120635
OCA v. Hodges, 615 F.Supp.2d 477	289+426(1)	Along with profit-sharing, co-ownership of a business is an indispensable requirement of a partnership under Pennsylvania law.	Is co-ownership of a business an indispensable requirement of a partnership?	Partnership - Memo 83 - RK.docx	ROSS-003302826-ROSS-003302827
Matter of Udell, 18 F.3d 403	51+2825	Right to equitable remedy for breach of performance qualifies as a "claim," within meaning of Bankruptcy Code, if same breach also gives rise to right to payment "with respect to" equitable remedy; right to payment must be an alternative to the right to equitable remedy or otherwise related to the right to equitable remedy. Bankr.Code, 11 U.S.C.A. S 101(5).	Can a party obtain an equitable remedy without a wrong for which a remedy is necessary?	003559.docx	LEGALEASE-00120370-LEGALEASE-00120371
N. Tr. Co. v. Consol. Elevator Co., 142 Minn. 132	366+1	Doctrine of subrogation is of purely equitable origin and nature; its object being to place a charge where it ought to rest, by compelling payment of a debt by him who ought in equity to pay it.	Is the doctrine of subrogation of equitable origin and nature?	003648.docx	LEGALEASE-00120448-LEGALEASE-00120449
Starr Int'l Co. v. United States, 106 Fed. Cl. 50	148+2.10(7)	Rough proportionality test used in connection with takings claim based on doctrine of unconstitutional conditions applies only in the context of land use exactions, and does not apply in context of monetary exactions. U.S.C.A. Const.Amend. 5.	Under what circumstance does the rough proportionality test apply?	Eminent Domain - Memo 142 - RK.docx	ROSS-003301422-ROSS-003301423

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
City of Brownsville v. Pub. Util. Comm'n of Texas, 616 S.W.2d 402	317A+102	Public Utilities Regulatory Act was not invalid insofar as it purported to extend the jurisdiction of the Public Utilities Commission to municipally owned public utilities, even though the caption of the Act did not specifically refer to such utilities; the caption's reference to public utilities was sufficient. Vernon's Ann.Civ.St. art. 1446c, S 1 et seq.; Vernon's Ann.St.Const. Art. 3, S 35.	Does the caption of the Utility Regulation Act relate to the regulation of public utilities?	003525.docx	LEGALEASE-00120897-LEGALEASE-00120898
City of Dallas v. CKS Asset Mgmt., 345 S.W.3d 199	148+2.2	City was acting under color of right, rather than pursuant to its power of eminent domain, when it asserted claim of ownership to real property, and thus did not have requisite intent to support adverse claimant's inverse condemnation claim, even though city had not established that its claim to property was superior to adverse claimant's, where city asserted ownership by detailing chain of title arising from abstracted judgments, related foreclosure sales, and its purchase of property for \$972,120 by special warranty deed granted by third party. Vernon's Ann.Texas Const. Art. 1, S 17(a).	Is the State's intentional act of taking property for public use an exercise of its eminent domain powers?	Eminent Domain - Memo 150 - RK.docx	ROSS-003284700-ROSS-003284702
Bochenek v. Walgreen Co., 18 F. Supp. 2d 965	237+100(2)	Under Indiana law, if a communication is defamatory per se, damages need not be specially pleaded or proved, and malice will be implied.	When is malice implied in an action for defamation?	Libel and Slander - Memo 160 - RK.docx	LEGALEASE-00010683-LEGALEASE-00010684
State ex rel. Utilities Comm'n v. Edmisten, 291 N.C. 327	92+4371	Utilities Commission's interim ex parte order which authorized fossil fuel adjustment clause to be placed in effect by electric utility on an interim basis pending further hearing and final determination did not violate constitutional due process requirements of notice and an opportunity to be heard, since sufficient protection was afforded by subsequent hearings and utility's refund undertaking. Const.1970, art. 1, S 19; U.S.C.A.Const. Amend. 14; G.S. S 62-132.	Why was General Statutes s 62135 enacted?	Public Utilities - Memo 66 - AM.docx	ROSS-003301366-ROSS-003301367
Transamerica Ins. Co. v. Barnes, 29 Utah 2d 101	366+1	Subrogation is not a matter of right but may be invoked only in those circumstances where justice demands its application. (Per Callister, C. J., with one Justice concurring and one Justice concurring in the result.)	Is subrogation permitted only when the rights of those seeking subrogation have greater equity than the rights of those who oppose it?	043598.docx	LEGALEASE-00121001-LEGALEASE-00121002
PM Farms v. Young, 233 F. Supp. 3d 706	23+3.2	Administrative proceedings in connection with farmer's violations of regulations governing highly erodible land (HEL) arising from not following approved conservation plan did not violate farmer's due process rights, since before imposition of any graduated pay reduction (GPR) penalty, farmer was informed of alleged violations, and farmer had meaningful opportunities to challenge, including requesting reconsideration, appealing to Farm Service Agency (FSA), seeking good faith relief, appealing to National Appeals Division (NAD) of United States Department of Agriculture (USDA), and exercising right to judicial review. U.S. Const. Amend. 5; 7 C.F.R. S 12.6(c)(9).	When is a person ineligible for USDA program benefits?	006747.docx	LEGALEASE-00121751-LEGALEASE-00121752

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Compassion Over Killing v. U.S. Food & Drug Admin., 849 F.3d 849	23+3.3(3)	Agricultural Marketing Service (AMS) did not act arbitrarily or capriciously, in violation of the Administrative Procedures Act (APA), in denying petition submitted by organizations that advocated for animal rights and individual egg consumers, requesting that AMS promulgate regulations requiring all egg cartons to identify conditions in which the egg-laying hens were kept during production; AMS lacked authority to promulgate mandatory labeling requirements for shell eggs under the Agricultural Marketing Act (AMA). 7 U.S.C.A. S 1622(c).	What does the Agricultural Marketing Act (AMA) authorize the Agricultural Marketing Service (AMS) to do?	006751.docx	LEGALEASE-00121747-LEGALEASE-00121748
Tilton v. Reclamation Dist. No. 800, 142 Cal. App. 4th 848	148+2.17(5)	Damage to real property allegedly caused by negligence of reclamation district in maintenance of levees did not constitute "taking" that would support inverse condemnation or S 1983 cause of action. 42 U.S.C.A. S 1983; West's Ann.Cal. Const. Art. 1, S 19.	Can a property owner recover in an inverse condemnation proceeding for damages caused by acts of carelessness or neglect on the part of a public agency?	017408.docx	LEGALEASE-00121465-LEGALEASE-00121466
Matter of Bd. of Cty. Comm'rs of Cty. of Arapahoe, 891 P.2d 952	307A+2	Purpose of rule authorizing court to enter order determining question of law is to allow court to address issues of law which do not decide claim but will have significant impact on litigation. Rules Civ.Proc., Rule 56(h).	What is the purpose of a 56(h) motion?	Pretrial Procedure - Memo # 6 - C - SU.docx	ROSS-003325432-ROSS-003325433
Union Planters Bank, N.A. v. FT Mortg. Companies, 341 Ill. App. 3d 921	366+27	There are two types of subrogation: (1) contractual or conventional rights, and (2) common law or equitable rights.	Are the two types of subrogation conventional and equitable?	Subrogation - Memo # 452 - C - NO.docx	ROSS-003301430-ROSS-003301431
Bel Air & Briney v. City of Kent, 190 Wash. App. 166	366+1	Subrogation is an equitable remedy, and is founded in the facts and circumstances of each particular case.	Does equitable subrogation depend on the facts and circumstances of each case?	043674.docx	LEGALEASE-00121247-LEGALEASE-00121249
Cont'l Cas. Co. v. Ryan Inc. E., 974	366+1	Equitable (sometimes referred to as legal) subrogation arises by operation of law.	Does subrogation arise by operation of law or agreement?	Subrogation - Memo # 463 - C - SA.docx	ROSS-003297074-ROSS-003297075
In re N. Am. Rubber Thread Co., 333 B.R. 164	366+1	Doctrine of equitable subrogation is available when there is no express subrogation agreement.	Is the doctrine of equitable subrogation available when there is no express subrogation agreement?	Subrogation - Memo # 499 - C - NO.docx	ROSS-003310401-ROSS-003310403
Dieden v. Schmidt, 104 Cal. App. 4th 645	366+1	Doctrine of equitable subrogation invokes court's equitable jurisdiction.	Does the Doctrine of equitable subrogation invoke a court's equitable jurisdiction?	Subrogation - Memo # 632 - C - SA.docx	ROSS-003288012-ROSS-003288013
E. Sav. Bank, FSB v. Papageorge, 31 F. Supp. 3d 1	386+6	"Chattel," for purposes of trespass to chattels under District of Columbia law, includes personal property, but not money.	Is personal property included within the meaning of chattel for the purpose of trespass to chattel?	047154.docx	LEGALEASE-00121366-LEGALEASE-00121368
Pritzker v. Merrill Lynch, Pierce, Fenner & Smith, 7 F.3d 1110	170B+3403	Pension plan trustees waived argument that they could not have intended to submit statutory ERISA claims to arbitration since those claims were not arbitrable at time of signing agreement; trustees did not raise argument before district court, and manifest injustice would not result since trustees were assured of arbitration forum.	Does a district court's duty to enforce an arbitration agreement diminish when a party to the agreement asserts a statutory claim?	007084.docx	LEGALEASE-00122428-LEGALEASE-00122430

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Leahy v. Haworth, 141 F. 850	83E+374	A written assignment on the back of a promissory note payable to the order of the payee, signed by such payee, is the equivalent of a blank indorsement to transfer title to the note free from equities, either under the law merchant or Comp.St.Neb.1901, S 3380, which provides that "all bonds, promissory notes, bills of exchange, foreign and inland, drawn for any sum or sums of money certain, and made payable to any person or order, or to any person or assigns, shall be negotiable by indorsement thereon so as absolutely to transfer and vest the property thereof in each and every indorsee successfully," and under such section a written guaranty, signed by the payee on the back of a note payable to his order, constitutes an indorsement with an enlarged liability, and transfers the legal title free from equities existing between the maker and payee.	Does the payee of a negotiable note who signed his name on the back of the note assume liabilities?	009554.docx	LEGALEASE-00122336- LEGALEASE-00122338
United States v. Miller, 317 U.S. 369	148+131	Since owner is to receive no more than indemnity for condemned land, his award cannot be enhanced by any gain to the taker.	Can the award be enhanced by any gain to the taker under the takings law?	017430.docx	LEGALEASE-00121930- LEGALEASE-00121931
Mike's Contracting v. United States, 92 Fed. Cl. 302	148+82	Real property, tangible property, and intangible property, all may be the subject of Fifth Amendment takings claims. U.S.C.A. Const.Amend. 5.	"Are real, tangible and personal property protected by taking clause?"	017444.docx	LEGALEASE-00122229- LEGALEASE-00122230
Kadrovach v. State, 61 N.E.3d 1241	203+1404	Language in instruction, which included a general, statutory definition of an "attempt" to commit any offense, stating that the culpability necessary to prove an attempt was the same level as was required for the offense itself, was not an accurate statement when the attempted offense was murder, given that murder and attempted murder were not subject to the same level of culpability. West's A.I.C. 35-41-5-1(a), 35-42-1-1(1).	Are murder and attempted murder subject to the same level of culpability?	019339.docx	LEGALEASE-00122458- LEGALEASE-00122459
Others First v. Better Bus. Bureau of Greater St. Louis, 829 F.3d 576	237+6(1)	Alleging a conflict of interest is not defamatory under Missouri law unless it implies undisclosed defamatory facts.	Are allegations of conflict of interests defamatory?	Libel and Slander - Memo 186 - BP.docx	ROSS-003300641-ROSS- 003300642
Harris v. Wallethe, 538 So.2d 728	289+451	Whether parties have used the word "partnership" is immaterial in determining whether their enterprise is a partnership.	"If the parties do not use the words partners or partnership, will that affect the existence of the partnership?"	021813.docx	LEGALEASE-00122471- LEGALEASE-00122472
Gunn v. Central R.R., 74 Ga. 509	101+2253	The powers of a corporation are limited and fixed by the act of incorporation, and besides the powers thus specially granted, it has those which are common to all corporations. The power to form a partnership is not one of those which is common to all corporations; and where the charter of a railroad conferred no such power upon it, it had no authority to enter into a partnership with a natural person to run a line of boats and carry passengers, and its acts and contracts pertaining to the business of such an association are invalid as against the firm and the corporation as a member thereof; and it is not liable to an action for a tort arising from a breach of duty created by a contract of such a firm.	Do corporations have the power to become members of a partnership?	021826.docx	LEGALEASE-00122487- LEGALEASE-00122488

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
In re Funneman, 155 B.R. 197	289+953	Under Illinois law, partners' rights in partnership property are secondary to rights of partnership creditors; until creditors of partnership are satisfied, no partner has right to any distribution from partnership.	Are partners rights in partnership property secondary to the rights of partnership creditors?	021865.docx	LEGALEASE-00122526- LEGALEASE-00122527
McGurren v. City of Fargo, 66 N.W.2d 207	302+214(4)	A demurrer does not admit inferences and conclusions unless they appear clearly drawn from the facts alleged.	Does a demurrer admit the inferences or conclusions from the facts alleged in the complaint?	Pleading - Memo 132 - RMM.docx	LEGALEASE-00012020- LEGALEASE-00012021
Singh v. Larry Fowler Trucking, 390 S.W.3d 280	30+205	Although plaintiff driver, who was rear-ended by defendant driver, did not make a separate offer of proof, there was sufficient evidence in the record from which appellate court could determine the trial court's reasoning in granting defendant's motion in limine to exclude deposition testimony of plaintiff's medical expert and whether court's ruling was erroneous, given that the appellate record contained full deposition of plaintiff's medical expert, the motion in limine, and the trial court's order on the motion; substance of the evidence and the specific evidentiary basis supporting admission or exclusion were apparent from the context. Rules of Evid., Rule 103(a)(2).	"Although rulings on motions in limine are within the discretion of the trial court, are discretionary choices left to a court's inclination?"	Pretrial Procedure - Memo # 388 - C - NE.docx	ROSS-003282162-ROSS- 003282163
Certain Underwriters at Lloyd's, London v. S. Nat. Gas Co., 142 So. 3d 436	307A+3	A trial court has broad discretion in determining whether to grant a motion in limine.	Do trial courts have broad discretion when ruling on a motion in limine?	Pretrial Procedure - Memo # 21 - C - KA.docx	LEGALEASE-00012210- LEGALEASE-00012211
Jakobsen v. Colonial Pipeline Co., 237 Ga. App. 441	307A+3	Trial court can modify a ruling on a motion in limine.	Can a trial court modify a ruling on a motion in limine?	028148.docx	LEGALEASE-00122125- LEGALEASE-00122126
Bifano v. Young, 665 S.W.2d 536	307A+3	Granting of a motion in limine is not a final ruling on the evidence.	Is the granting of a motion in limine not a final ruling on the evidence?	Pretrial Proceedure - Memo # 42 - C - TJ.docx	ROSS-003297535-ROSS- 003297536
Fed. Ins. Co., an Indiana corporation v. Hartford Steam Boiler Inspection & Ins. Co., 415 F.3d 487	366+1	Equitable subrogation is a flexible, elastic doctrine of equity.	"Is equitable subrogation a flexible, elastic doctrine of equity, whose application should and must proceed on case-by-case analysis characteristic of equity jurisprudence?"	044142.docx	LEGALEASE-00121792- LEGALEASE-00121793
In re Cone Constructors, 265 B.R. 302	316H+239	Under Florida law, surety is entitled to right of equitable subrogation with respect to any contract funds owed by owner of project, where contractor has defaulted on public construction project, and surety has performed its obligations under bond.	Is a surety that satisfies its obligations under payment or performance bond subrogated to rights of party that he paid?	044212.docx	LEGALEASE-00122135- LEGALEASE-00122136
Vang Chanthavong v. Aurora Loan Services, 448 B.R. 789	13+61	Under California law, a claim accrues when an action could have been brought.	Does a claim or cause of action accrue when an action could have been brought?	005442.docx	LEGALEASE-00122805- LEGALEASE-00122806
Pioneer Roofing Co. v. Mardian Const. Co., 152 Ariz. 455	241+43	Accrual of cause of action means right to institute and maintain suit.	Does cause of action arise when party has a right to file suit?	Action - Memo # 147 - C - CS.docx	ROSS-003324741-ROSS- 003324742
Whitney v. Whitney, 316 Mass. 367	13+61	Actual injury and not anticipated injury is the ground of legal recovery.	Is actual injury and not anticipated injury the ground of legal recovery?	005594.docx	LEGALEASE-00123973- LEGALEASE-00123974
Fredericksen v. Knight Land Corp., 667 P.2d 34	241+43	The statute of limitations begins to run at the moment that a cause of action arises.	Does a cause or right of action arise the moment action may be maintained to enforce it?	005636.docx	LEGALEASE-00124031- LEGALEASE-00124033

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In re Katrina Canal Breaches Consol. Litig., 629 F. Supp. 2d 601	13+61	Cause of action for property damage arises under Louisiana law when damages are incurred; it is only once damages are incurred that cause of action is considered to have vested.	Does a cause of action for property damage arise when damages are incurred?	Action - Memo # 28 - C - LK.docx	LEGALEASE-00012628-LEGALEASE-00012629
In re Bounds, 495 B.R. 725	51+2556	Chapter 7 debtor-husband's cause of action for his attorneys' alleged malpractice, in purportedly devising ill-conceived and self-serving plan to stall pending state court litigation by advising him to file for bankruptcy on eve of trial without explaining that any judgment from litigation would not be dischargeable in bankruptcy and that securities violations alleged would render his homestead nonexempt, accrued on the moment that bankruptcy case was commenced and some of alleged injury first occurred, even if debtor-husband did not at that time know the full extent of his injuries; accordingly, malpractice claims belonged, not to debtor-husband, but to bankruptcy estate. 11 U.S.C.A. S 541(a)(1).	Do the facial allegations in the complaint limit and guide the court's analysis of when a cause of action accrues?	Action - Memo # 33 - C - LK.docx	ROSS-003298702-ROSS-003298703
Eck v. Godbout, 444 Mass. 724	13+61	A claim arises at the time of the underlying incident giving rise to the claim.	Does a claim arise at the time of the underlying incident?	Action- Memo # 77 - C - LK.docx	ROSS-003308607-ROSS-003308608
Snyder v. Farnam Companies, 792 F. Supp. 2d 712	360+18.15	Consumers' claims under New Jersey law against manufacturer of pesticide products for cats and dogs for breach of express warranty, breach of implied warranty, and unjust enrichment, were not pre-empted by FIFRA's labeling requirements; although success on breach of express warranty claim might lead to a label change on the product, such change would not be a requirement in violation of FIFRA's preemption provision, breach of implied warranty of merchantability claim only required that the product itself be merchantable, not that manufacturer label its products in any particular way, and unjust enrichment claim only alleged that product received was not product consumers had bargained for, so did not address any labeling requirements. Federal Insecticide, Fungicide, and Rodenticide Act, SS 3, 3(c), 24(b), 7 U.S.C.A. SS 136a, 136a(c), 136v(b).	"According to the Supreme Court, what does not qualify as a requirement for labeling or packaging with regards to manufacturers?"	006735.docx	LEGALEASE-00123971-LEGALEASE-00123972
McKesson Corp. v. Islamic Republic of Iran, 539 F.3d 485	221+342	Act of state doctrine applies when the relief sought against a foreign sovereign or the defense interposed by the sovereign would require a court in the United States to declare invalid the official act of the foreign sovereign performed within its own territory.	Does the act of state doctrine apply only to conduct that is by nature distinctly sovereign?	019720.docx	LEGALEASE-00123783-LEGALEASE-00123784
Barber v. Tadayasu Abo, 186 F.2d 775	221+134	Mere renunciation of one citizenship does not of itself create another, and it is only by the law of the nation of the successor citizenship that the renunciant may attain it.	Does mere renunciation of one citizenship create another?	019972.docx	LEGALEASE-00122908-LEGALEASE-00122909
Lizarbe v. Rondon, 642 F. Supp. 2d 473	221+342	Application of the act of state doctrine depends on a case-by-case analysis.	Does the application of the act of state doctrine depend on a case-by-case analysis?	019993.docx	LEGALEASE-00123209-LEGALEASE-00123210
Stserba v. Holder, 646 F.3d 964	221+154	It is within each state's domestic jurisdiction to decide who are its nationals.	Is it within each states domestic jurisdiction to decide who its nationals are?	020535.docx	LEGALEASE-00123309-LEGALEASE-00123310
Fogade v. ENB Revocable Tr., 263 F.3d 1274	221+342	Act of state doctrine applies to affirmative defenses.	Does the act of state doctrine apply to affirmative defenses?	020783.docx	LEGALEASE-00123654-LEGALEASE-00123655

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Ingram v. Clover Leaf Lumber Co., 331 Mo. 739	289+1019	Receiver will not be appointed for partnership property except where necessary for protection of property rights of the parties.	When can the court refuse to appoint a receiver of partnership property?	Partnership - Memo 176 - BP.docx	ROSS-003298878-ROSS-003298879
Merwin v. Ziebarth, 252 N.W.2d 193	289+469	Concept of "ostensible partnership" is essentially equivalent to the concept of "partnership by estoppel" defined in statute. NDCC 45-06-08.	Is ostensible partnership equivalent to the partnership by estoppel?	Partnership - Memo 177 - BP.docx	LEGALEASE-00013522-LEGALEASE-00013523
In re Singer, 99 A.D.3d 802	307A+3	Motion in limine is an inappropriate substitute for a motion for summary judgment.	Is a motion in limine an inappropriate substitute for a motion for summary judgment?	Pretrial Procedure - Memo # 291 - C - CRB.docx	ROSS-003283738-ROSS-003283740
Eckler v. Allen, 231 S.W.3d 379	307A+1	Trial judges have the right to set and enforce deadlines.	Do trial judges have the right to set and enforce deadlines?	Pretrial Procedure - Memo # 320 - C - ANC.docx	ROSS-003285157-ROSS-003285158
Morris v. Brandenburg, 376 P.3d 836	368+3	Statute criminalizing "assisting suicide," which is defined as "deliberately aiding another in the taking of his own life," prohibits physician aid in dying, which is the medical practice of providing a mentally-competent, terminally-ill patient with a prescription for medication that the patient may choose to take in order to bring about a peaceful death if the patient finds his or her dying process unbearable. N.M. Stat. Ann. S 30-2-4.	How is the term assisting suicide defined?	044465.docx	LEGALEASE-00122560-LEGALEASE-00122561
United States v. Lovknit Mfg. Co., 189 F.2d 454	13+61	A cause of action will "accrue" when all the facts exist, whether known or not, which will authorize a suit.	When does a cause of action accrues?	005807.docx	LEGALEASE-00124910-LEGALEASE-00124911
Powderly v. MetraByte Corp., 866 F. Supp. 39	25T+133(1)	Under Federal Arbitration Act, use of term "arbitrate" is not vital ingredient of agreement to do so. 9 U.S.C.A. S 2.	Is the use of the term arbitrate a vital ingredient of an arbitration agreement?	007168.docx	LEGALEASE-00125565-LEGALEASE-00125567
Hooters of Am. v. Phillips, 173 F.3d 933	25T+134(5)	Arbitral forum need not replicate the judicial forum for arbitration agreement to be enforceable.	Does an arbitral forum need to replicate a judicial forum to be enforceable?	Alternative Dispute Resolution - Memo 431 - RK.docx	LEGALEASE-00014211-LEGALEASE-00014213
Lafontant v. Aristide, 844 F. Supp. 128	221+151	Exiled president of Haiti was entitled to head-of-state immunity in civil rights action arising out of his alleged extrajudicial killing of political opponent in Haiti, notwithstanding contention that killing was private, rather than official act; whether killing was private or official act was irrelevant as neither Foreign Sovereign Immunities Act (FSIA) nor Torture Victim Protection Act (TVPA) negated head-of-state immunity. 28 U.S.C.A. S 1605; Torture Victim Protection Act of 1991, SS 2, 3, 28 U.S.C.A. S 1350 note.	Does the Torture Victim Protection Act (TVPA) negate common-law head-of-state immunity?	020158.docx	LEGALEASE-00124749-LEGALEASE-00124750
Glen v. Club Mediterranee S.A., 365 F. Supp. 2d 1263	221+351	Act of state doctrine did not have exception for commercial activity.	Does the act of state doctrine have an exception for commercial activity?	International Law - Memo # 290 - C - SS.docx	ROSS-003298308-ROSS-003298309
Slater v. Jackson, 163 Ga. App. 342	307A+1	Where no pretrial order is entered, pretrial proceedings end with commencement of trial proper and taking of evidence, and unfettered right to amend ceases and party may amend his pleading only by leave of court or by consent of adverse party. Code, S 81A-115.	When do pretrial proceedings end?	030931.docx	LEGALEASE-00124987-LEGALEASE-00124988
Chavis v. Dir., State Worker's Comp. Div., 924 S.W.2d 439	307A+3	Motion in limine is not valid substitute for objection or motion to strike.	Is a motion in limine a valid substitute for an objection or motion to strike?	Pretrial Procedure - Memo # 508 - C - LK.docx	ROSS-003281676-ROSS-003281677

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
State v. Young, 136 Idaho 113	110+632(4)	An order granting a motion in limine is not a final order; the trial court can reconsider the issue at any time.	Is a granted motion in limine a final order?	041194.docx	LEGALEASE-00124196-LEGALEASE-00124197
Pub. Utilities Comm'n v. Natatorium Co., 36 Idaho 287	405+2277	Where waters flowing from a water company's hot water wells were private waters, the facts of distribution to a selected class of customers for compensation, that the company originally filed notices of location and appropriation of the hot waters of certain springs, and was authorized by its charter to devote such waters to a public use, in the absence of an unequivocal intention to dedicate to a public use, do not of themselves constitute the company a public service corporation, since such waters belong to the company as unqualifiedly as the land upon which the springs were found.	Is the dedication of the property of a corporation to public use presumed without evidence of unequivocal intention?	Public Utilities - Memo 153 - AM.docx	LEGALEASE-00015336-LEGALEASE-00015338
Rupp v. Transcon. Ins. Co., 627 F. Supp. 2d 1304	366+1	Under Utah law, subrogation must not work any injustice to the rights of others.	Is it required that subrogation must not work any injustice to the rights of others?	Subrogation - Memo # 436 - C - SU.docx	ROSS-003312146-ROSS-003312147
In re Stambaugh, 532 B.R. 572	366+1	Four criteria must be met in order for equitable subrogation to apply as exception to Pennsylvania's "first in time" lien priority rule: (1) claimant must have paid creditor to protect his own interests; (2) claimant must not have acted as volunteer; (3) claimant must not have been primarily liable for debt; and (4) allowing subrogation must not cause injustice to the rights of others.	Is the first in time rule an exception to equitable subrogation?	Subrogation - Memo 1000 - C- CAT.docx	ROSS-003299378
N. Tr. Co. v. Consol. Elevator Co., 142 Minn. 132	366+1	Doctrine of subrogation is of purely equitable origin and nature; its object being to place a charge where it ought to rest, by compelling payment of a debt by him who ought in equity to pay it.	Is the doctrine of subrogation purely equitable origin?	Subrogation - Memo 1025 - C- CAT.docx	ROSS-003284152-ROSS-003284153
Philadelphia Indem. Ins. Co. v. Pace Suburban Bus Serv., 2016 IL App (1st) 151659	366+1	Subrogation is allowed to prevent injustice and unjust enrichment but will not be allowed where it would be inequitable to do so.	Will subrogation be allowed where it would be inequitable?	Subrogation - Memo 992 - C- CAT.docx	ROSS-003285471-ROSS-003285472
Jordan v. Knox Cty., 213 S.W.3d 751	79+7	Circuit and criminal court clerks are considered to be county officials, but the positions are created as part of the judicial branch of the government; therefore, court clerks may not be subjected to term limits imposed by county. West's T.C.A. Const. Art. 6, S 13; Art. 7, S 1; West's T.C.A. S 5-1-204(f)(1).	Are court clerks considered to be county officials?	013523.docx	LEGALEASE-00125702-LEGALEASE-00125703
People v. Jones, 2017 WL 3262112	203+709	The mental state for murder is knowledge, while the mental state for involuntary manslaughter is recklessness. S.H.A. 720 ILCS 5/9-1(a)(1, 2), 5/9-3.	Is mental state of involuntary manslaughter considered as recklessness?	Homicide - Memo 160 - VG.docx	ROSS-003298628-ROSS-003298629

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Miller v. Journal-News, 211 A.D.2d 626	237+55	Newspaper article stating that police officer was "suspended" from his duties by police department pending departmental investigation into shooting incident was substantially true, barring officer's libel action against newspaper, although officer was placed on "administrative leave" instead of suspended; terms "suspended" and "placed on administrative leave" were interchangeable given underlying facts of incident reported and action taken by police department in placing officer on leave pending internal investigation.	Can a substantial truth of the newspaper articles bar a libel action?	021108.docx	LEGALEASE-00125604- LEGALEASE-00125605
CompuServe Inc. v. Cyber Promotions, 962 F. Supp. 1015	386+6	Use of personal property exceeding consent is trespass. Restatement (Second) of Torts S 256.	Can the use of personal property exceeding consent constitute a trespass?	Trespass - Memo 190 - RK.docx	LEGALEASE-00015750- LEGALEASE-00015751
Konecny v. United States, 388 F.2d 59	13+61	A cause of action accrues at the time when an action thereon can be commenced.	Does a cause of action accrue at the time when an action thereon can be commenced?	005336.docx	LEGALEASE-00126078- LEGALEASE-00126079
Morning v. Bd. of Educ. of City Sch. Dist. of City of New York, 28 Misc. 3d 653	141E+364	Claim against a school district accrues when damages mature and become certain and ascertainable.	Does the claim accrue when damages become ascertainable?	005460.docx	LEGALEASE-00126246- LEGALEASE-00126247
Coca-Cola Co. v. Harmar Bottling Co., 218 S.W.3d 671	361+1415	A statute will not be given extraterritorial effect by implication but only when such intent is clear.	Will a statute be given extraterritorial effect by implication?	005740.docx	LEGALEASE-00126263- LEGALEASE-00126264
Estep v. Commissioners of Boundary Cty., 122 Idaho 345	79+1	Clerk of the district court is judicial official, despite possession of powers and duties which are nonjudicial. Const. Art. 5, S 16.	Are clerks of court judicial officials?	013424.docx	LEGALEASE-00126278- LEGALEASE-00126279
Luf v. Town of Southbury, 188 Conn. 336	148+2.19(1)	Property owner's diminution of their access rights under statute preserving for them a less valuable but nonetheless legally viable right of access to public highway system after discontinuance of public highway did not, in practical effect, so drastically impair economic utilization of land that discontinuance of public highway, as to them, was a taking of their property. C.G.S.A. S 13a-55; U.S.C.A. Const. Amends. 5, 14.	Do some impairment of access rights and some diminution in the total value of property justify a conclusion that there has been an unconstitutional taking?	017595.docx	LEGALEASE-00126157- LEGALEASE-00126158
Sampson v. Fed. Republic of Germany, 975 F. Supp. 1108	221+333	Universal jurisdiction, such as exists under international law for certain offenses, applies to a foreign national, not to a foreign sovereign.	Does universal jurisdiction apply to a foreign national or a foreign sovereign?	020635.docx	LEGALEASE-00126016- LEGALEASE-00126017
Craigslist Inc. v. 3Taps Inc., 942 F. Supp. 2d 962	386+7	Under California law, tort of trespass to chattel does not encompass electronic communication that neither damages recipient computer system nor impairs its functioning.	Can unauthorized access to a computer system be considered a trespass?	Trespass - Memo 180 - RK.docx	ROSS-003286848-ROSS- 003286849
Stitzel v. Miller, 250 Ill. 72	13+61	There cannot be any recovery in an ordinary common-law action, where the money is not due at the institution of the suit.	Can there be any recovery in an ordinary common-law action?	Action - Memo # - C 318- TJ.docx	ROSS-003286251-ROSS- 003286253
Hartford Life Ins. Co. v. Title Guarantee Co., 520 F.2d 1170	13+61	Right to sue did not accrue until plaintiff had a cause of action.	Did right to sue accrue until plaintiff had a cause of action?	005481.docx	LEGALEASE-00126363- LEGALEASE-00126364
Republic Ins. Co. v. Culbertson, 717 F. Supp. 415	13+1	Essential elements of a cause of action are a legal obligation, a breach, and consequential damage.	Is occurrence of an injury essential for a cause of action?	Action - Memo # 268 - C - ES.docx	ROSS-003313212-ROSS- 003313213

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Vanderlinde Elec. Corp. v. City of Rochester, 54 A.D.2d 155	13+61	There exists a distinction between an "accrued claim" and a cause of action: an "accrued claim" is one in which damages have accrued.	Is there a distinction between an accrued claim or claim accrued and a cause of action?	005751.docx	LEGALEASE-00126640-LEGALEASE-00126641
Caner v. Owners' Realty Co., 33 Cal. App. 479	95+277(1)	Where no time is specified for performance of contract other than for payment of money, a demand for performance is necessary to put promisor in default.	"For an action to lie for a default, should there be a demand and nonperformance?"	006364.docx	LEGALEASE-00126395-LEGALEASE-00126396
Parker v. Levy, 417 U.S. 733	34+3(1)	Just as military society has been a society apart from civilian society, so military law is a jurisprudence which exists separate and apart from the law which governs in our federal judicial establishment and to maintain the discipline essential to perform its mission effectively, the military has developed the customary military law.	Is the military a specialized community that is governed by laws separate from civilian society?	008882.docx	LEGALEASE-00126371-LEGALEASE-00126372
Commercial Trading Co. v. Trade Bank & Tr. Co., 207 Misc. 510	8.30E+05	The free circulation of negotiable paper is to be encouraged and the law must be interpreted in that light.	How should the Negotiable Instrument Law be interpreted?	009026.docx	LEGALEASE-00126749-LEGALEASE-00126750
Corbin v. State ex rel. Slaughter, 324 So. 2d 203	79+66	Clerk has no authority to contest validity of any act of court for which he acts as clerk purportedly done in performance of court's judicial function.	Is the clerk of the circuit court a ministerial officer of the court?	013452.docx	LEGALEASE-00126778-LEGALEASE-00126779
Powell v. Buchanan Cty., 348 Mo. 807	104+63	The statute providing that no money shall be paid to any deputy or assistant county officer, who has not been authorized by county court to be appointed by any of the county officials authorized to appoint assistants and deputies, and statute providing that number of all deputies required by any county office shall be submitted to county court and county court shall by order of record permit such number as in their opinion the necessary duties of the office require, would be construed as referring to deputies and assistants other than chief deputy specified by statute providing for chief deputies of certain county officers and fixing their salaries at \$1,920 per year. Mo.R.S.A. SS 13488, 13494, 13495.	Can a county court exercise discretion as to the number of deputies and assistants the clerk may appoint?	013460.docx	LEGALEASE-00126786-LEGALEASE-00126787
Forest Properties v. United States, 39 Fed. Cl. 56	148+2.1	In determining whether there has been regulatory/partial taking of property, investment-backed expectation must be more than unilateral expectation or abstract need, it must be reasonable. U.S.C.A. Const.Amend. 5.	Should an investment-backed expectation be more than a unilateral expectation or an abstract need?	Eminent Domain - Memo 280 - GP.docx	ROSS-003290122-ROSS-003290123
Robinson v. Martel Enterprises, 337 So. 2d 698	302+8(10)	Waiver is conclusion of law, and facts constituting such excuse must be pleaded.	Should facts constituting waiver be pleaded?	023056.docx	LEGALEASE-00126708-LEGALEASE-00126709
State v. Boschert, 693 S.W.2d 128	352H+122	Defendant's abandonment of his attempt to rape victim after great deal of resistance by her was not a defense to attempted rape. V.A.M.S. SS 566.030, 558.016, subd. 1.	Is abandonment of rape a defense to attempted rape?	Sex Offence - Memo 46 - SB.docx	ROSS-003290920-ROSS-003290921
State v. Barclays Bank of New York, N.A., 151 A.D.2d 19	172H+622	Named payee of undelivered check cannot bring conversion action against depository bank which cashed check over forged endorsement; delivery, either actual or constructive, is indispensable prerequisite for such action. McKinney's Uniform Commercial Code S 3-419.	Can delivery to one payee be considered as constructive delivery?	009041.docx	LEGALEASE-00126934-LEGALEASE-00126935

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Skip Kirchdorfer v. United States, 6 F.3d 1573	148+2.2	"Permanent physical occupation" of private property by government that constitutes taking under Fifth Amendment does not necessarily mean occupation unlimited in duration and does not need to be continuous and uninterrupted; rather, permanent physical occupation can have limited term and an intermittent intrusion still causes taking. U.S.C.A. Const.Amend. 5.	Does a permanent physical occupation need to be continuous and uninterrupted?	Eminent Domain - Memo 313 - GP.docx	ROSS-003286048-ROSS-003286049
Kelley v. Mallory, 202 Or. 690	302+8(1)	Conclusion of law in pleading is not issuable, requires no denial, does not aid the pleading, and amounts to a nullity.	Is a conclusion of law a nullity?	023064.docx	LEGALEASE-00126886-LEGALEASE-00126887
First Am. Title Ins. Co. v. Cumberland Cty. Bank, 633 F. Supp. 2d 566	366+41(6)	Under Tennessee law, burden is on party claiming subrogation to prove entitlement.	Is the burden on the party claiming subrogation to prove entitlement?	044253.docx	LEGALEASE-00127110-LEGALEASE-00127111
Kofoed v. Indus. Comm'n of Utah, 872 P.2d 484	413+1	Workers' compensation is centered on relationship between employer and employee.	Is workers compensation centered on the relationship between the employer and employee?	048538.docx	LEGALEASE-00127191-LEGALEASE-00127192
Mallon v. City of Long Beach, 164 Cal. App. 2d 178	212+1006	Equity acts in the present and not in the past tense, and whether injunctive relief will be granted depends upon present and future conditions and not solely on conditions existing when suit was brought.	"In granting or dissolving injunction, does equity act in present tense?"	Action - Memo # 665 - C - SK.docx	ROSS-003286296-ROSS-003286298
Holzapfel v. Hoboken Manufacturers' R. Co., 92 N.J.L. 193	13+62	"It is, of course, elementary at common law that an action cannot be brought to recover money not due."	"In an action at law, can a claim maturing after suit was brought be included in judgment?"	005943.docx	LEGALEASE-00127916-LEGALEASE-00127918
Walden's Lessee v. Craig's Heirs, 39 U.S. 147	13+63	At law, lapse of time can only operate by way of evidence.	"At law, can a lapse of time only operate by way of evidence?"	006041.docx	LEGALEASE-00127358-LEGALEASE-00127359
Cullen v. Johnson, 325 Mo. 253	13+36	Defendant's answer in quiet title action, attempting to set up plaintiffs' laches as equitable defense, but unaccompanied by prayer for affirmative equitable relief, did not convert law action into equitable action. V.A.M.S. S 527.150.	Is laches peculiarly a defense to an equitable claim and has no place as a defense to an action at law?	006090.docx	LEGALEASE-00127921-LEGALEASE-00127922
F.C.C. v. Florida Power Corp., 480 U.S. 245	148+2.1	Element of required acquiescence is at the heart of concept of occupation for purposes of per se taking analysis under the Fifth Amendment. U.S.C.A. Const.Amend. 5.	Is the element of required acquiescence at the heart of the concept of occupation?	Eminent Domain - Memo 329 - GP.docx	LEGALEASE-00017638-LEGALEASE-00017639
Martin v. Makowski, 67 A.D.2d 1080	366+35	It is possible to surrender one's right to subrogation by agreement.	Is it possible to surrender one's right to subrogation by agreement?	043451.docx	LEGALEASE-00127728-LEGALEASE-00127729
Celtic Life Ins. Co. v. McLendon, 814 So. 2d 222	217+3275	Arbitration clause in medical insurance policy stating that the disputes may be resolved by arbitration provided for mandatory, not permissive, arbitration; other terms of the clause made arbitration binding and a waiver of the right to seek remedies in court, and if neither party had a right to insist on arbitration, the clause would be meaningless since the parties could always voluntarily submit to arbitration.	Can an arbitration provision be included in a contract when the parties to the agreement intended for arbitration to be permissive?	Alternative Dispute Resolution - Memo 471 - RK.docx	ROSS-003286972-ROSS-003286973
Crawford v. Cushman, 531 F.2d 1114	34+2	The military is subject to the Bill of Rights and its constitutional implications.	Is the military subject to the bill of rights and its constitutional implications?	008355.docx	LEGALEASE-00128636-LEGALEASE-00128637
Kelly v. Colston, 977 So. 2d 692	307A+501	Petitioner has a nearly absolute right to voluntarily dismiss. West's F.S.A. RCP Rule 1.420.	Does a petitioner have a nearly absolute right to voluntarily dismiss?	Pretrial Procedure - Memo # 940 - C - KG.docx	ROSS-003327346-ROSS-003327347

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Harthun v. Edens, 2016 WL 1056960	307A+501	In most situations, a voluntary non-suit may be taken as a matter of right; however, such is not the case when a motion for summary judgment is pending. Tenn. R. Civ. P. 41.01.	Can a voluntary non-suit be taken as a matter of right?	039097.docx	LEGALEASE-00128261- LEGALEASE-00128262
In re Spree.Com Corp., 295 B.R. 762	366+35	Under Pennsylvania law, subrogation rights do not exist unless asserted by subrogee.	Do subrogation rights exist unless asserted by a subrogee?	Subrogation - Memo # 1100- C - SK.docx	ROSS-003313733
Nestel v. Future Const., 836 N.E.2d 445	366+35	Negligence and breach of contract do not supersede a waiver of subrogation.	Does negligence and breach of contract supersede a waiver of subrogation?	043178.docx	LEGALEASE-00128531- LEGALEASE-00128532
Lexington Ins. Co. v. Entrex Commc'n Servs., 275 Neb. 702	366+35	A contractual waiver of subrogation is enforceable against gross negligence claims.	Can you contractual waive subrogation and have it be enforceable against gross negligence claims?	043212.docx	LEGALEASE-00128561- LEGALEASE-00128562
Footlocker v. KK & J, 69 A.D.3d 481	217+3522	Waiver of subrogation clauses are necessarily premised on the procurement of insurance by the parties.	Does a party need insurance to waive of subrogation clauses?	043235.docx	LEGALEASE-00128453- LEGALEASE-00128454
In re Spree.Com Corp., 295 B.R. 762	366+35	Under Pennsylvania law, subrogation is not self-executing, but is right which must be pursued with reasonable diligence by the alleged subrogee or it is lost.	Can subrogation be self-executing?	Subrogation - Memo # 1082 - C - KG.docx	ROSS-003317333-ROSS- 003317335
Noroton Properties v. Lawendy, 154 Conn. App. 367	8.30E+184	A "promissory note" is nothing more than a written contract for the payment of money, and, as such, contract law applies.	Is a promissory note a contract?	Bills and Notes - Memo 142 - RK.docx	LEGALEASE-00018580- LEGALEASE-00018581
Abbott v. Hurst, 643 So.2d 589	289+485	When no time is fixed by contract for continuance of a partnership, partnership at will is created.	"When no time is fixed by contract for the continuance of a partnership, is a partnership at will created?"	021973.docx	LEGALEASE-00128895- LEGALEASE-00128896
Walthall v. U.S., 911 F.Supp. 1275	289+637	Notice to one partner regarding matter of importance to partnership is notice to every partner. AS 32.05.070.	Does a notice to one partner serve as a notice to allthe partners?	Partnership - Memo 215 - RK.docx	LEGALEASE-00018665- LEGALEASE-00018666
Rodgers v. RAB Investments, Ltd., 816 S.W.2d 543	289+950	Ouster of partner is sufficient expression of will to dissolve partnership; partnership continues to exist, at least for purposes of winding up, and only on termination of partnership does relationship end.	Is the ouster of a partner a sufficient expression of the will to dissolve the partnership?	021997.docx	LEGALEASE-00128921- LEGALEASE-00128922
Bushman Const. Co. v. Air Force Academy Housing, 327 F.2d 481	226H+3	Generally, substantive law of partnerships is applicable to joint adventures.	Is the substantive law of partnership applicable to joint ventures?	Partnership - Memo 239 - RK.docx	ROSS-003300294-ROSS- 003300295
Found. Engineers v. Superior Court, 19 Cal. App. 4th 104	401+5.5	Action is not transitory for venue purposes simply because money damages are sought but, rather, an action may essentially be local although it seeks damages for injury to real property. West's Ann.Cal.C.C.P. SS 392, 395(a, b), 395.5.	"Are alleged defects in underground water pipelines, resulting from defendants' alleged breach of contract, the type of injuries to real property contemplated by venue statutes for actions relating to real property?"	047494.docx	LEGALEASE-00128881- LEGALEASE-00128882
Vincent v. Vincent, 06-419 (La. App. 5 Cir. 10/31/06), 945 So. 2d 114	30+4	An appeal is not the appropriate remedy to attempt to annul a consent judgment.	Is an appeal the appropriate remedy to obtain relief from a consent judgment?	Appeal and error - Memo 34 - RK.docx	LEGALEASE-00018899- LEGALEASE-00018900
Gran v. Hale, 294 Ark. 563	250+4(4)	Mandamus, certiorari, or prohibition could not be used by pro se petitioner as substitute for appeal challenging convictions. A.C.A. S 16-17-703.	"Can mandamus, prohibition, or certiorari be used as a substitute for appeal?"	Appeal and error - Memo 42 - RK.docx	LEGALEASE-00018914- LEGALEASE-00018915
C & V Club v. Gonzalez, 953 S.W.2d 755	30+5	Elements necessary for Court of Appeals to review case by writ of error are mandatory and jurisdictional and cannot be waived. Rules App.Proc., Rule 45.	What are the requirements for bringing an appeal by writ of error?	008215.docx	LEGALEASE-00129097- LEGALEASE-00129098
Pilkington v. Potwin, 163 Iowa 86	30+13	A subsequent appeal or notice by the same party while the first is pending is nugatory.	Is a subsequent appeal or notice by the same party while their first appeal is pending considered nugatory?	Appeal and error - Memo 52 - RK.docx	ROSS-003326088-ROSS- 003326089

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Clouser v. Espy, 42 F.3d 1522	411+8	Mining statute limiting government regulation that materially interferes with use of surface of mining claim did not apply to actions taken by Forest Service to regulate mining-related activities occurring on national forest lands outside of boundary of mining claim. 30 U.S.C.A. S 612(b).	Is the Forest Service authorized to interfere with mining claims?	Woods and Forest - Memo 35 - RK.docx	LEGALEASE-00018976-LEGALEASE-00018977
Houston Cty. v. Harrell, 287 Ga. 162	30+14(0.5)	A party is not entitled to a second appeal from a single order.	Is a party entitled to a second appeal from a single order?	008230.docx	LEGALEASE-00129398-LEGALEASE-00129399
Massaline v. Carter, 528 So. 2d 561	30+103	Order of abatement and stay, which was filed in circuit court, was not appealable; moreover, District Court of Appeal had no jurisdiction to review matter as a petition for writ of certiorari because such a petition must be filed with the District Court, and not the circuit court as in plenary appeals, within 30 days of rendition of order to be reviewed. West's F.S.A. R.App.P.Rules 9.020(g), 9.040(c), 9.100(b, c).	Can a petition for a writ of certiorari be treated as a notice of appeal?	008232.docx	LEGALEASE-00129423-LEGALEASE-00129424
Clark v. Elza, 286 Md. 208	30+21	Consent of the litigants cannot vest jurisdiction in an appellate court.	Can the consent of the litigants vest jurisdiction in an appellate court?	Appeal and error - Memo 72 - RK.docx	LEGALEASE-00019052-LEGALEASE-00019053
Centennial Ins. Co. v. Sandner, 259 Ga. 317	30+14(4)	Under Appellate Practice Act, appellee may institute cross appeal against party other than appellant. O.C.G.A. SS 5-6-30 to 5-6-51.	Can an appellee institute a cross appeal against a party other than the appellant?	Appeal and error - Memo 75 - RK.docx	ROSS-003313498-ROSS-003313499
Antonuk v. United States, 445 F.2d 592	34+3(1)	Discretionary rulings by the Army are beyond the power of review of civilian courts.	Can discretionary rulings of an army be subject to judicial review?	Armed Services - Memo 104 - JS.docx	ROSS-003289054-ROSS-003289055
Caledonia Nat. Bank of Danville v. McPherson, 116 Vt. 328	8.30E+76	In revoking or countermanding a check the drawer takes upon himself all consequences of his act.	Do the consequences of revoking a check falls on the drawer?	009375.docx	LEGALEASE-00129171-LEGALEASE-00129172
People v. Shipley, 256 Mich. App. 367	67+2	Breaking and entering is not a continuing offense, but rather is completed once the offender has entered the building.	Is breaking and entering a continuing offense?	Burglary - Memo 42 - RK.docx	ROSS-003314347-ROSS-003314348
In re Lamont R., 200 Cal. App. 3d 244	67+2	Essential element of vehicular burglary is that vehicle must be locked. West's Ann.Cal.Penal Code S 459.	Is locking as an essential element of common vehicular burglary?	013211.docx	LEGALEASE-00129632-LEGALEASE-00129633
State v. Ellis, 33 N.J.L. 102	67+31	Valuation of items taken in a burglary were not relevant to the defendant's prosecution for second-degree burglary and should not have been admitted into evidence, in view of fact that value of the property taken was not an element of offense with which defendant was charged. I.C.A. SS 713.1, 713.3.	Is the value of the property taken relevant in second degree burglary?	013257.docx	LEGALEASE-00129667-LEGALEASE-00129668
Kane Cty. v. Carlson, 116 Ill. 2d 186	79+6	For purposes of Public Labor Relations Act, circuit clerk, and not chief judge, is employer of deputy clerks. S.H.A. ch. 48, PP 1601-1627.	Is the circuit clerk the employer of deputy clerks?	013358.docx	LEGALEASE-00129677-LEGALEASE-00129678
State v. Hackley, Hume & Joyce, 124 La. 854	302+8(1)	Ultimate facts of necessity are conclusions from intermediate and evidentiary facts; but legal conclusions cannot be pleaded as ultimate facts.	Are ultimate facts conclusions drawn from evidentiary facts?	Pleading - Memo 215 - RMM.docx	LEGALEASE-00019197-LEGALEASE-00019198
Ciaccio v. Hartman, 170 La. 949	302+8(11)	In possessory actions, allegations that petitioner had real and actual possession and enjoyment of property held not conclusion or opinion.	In an allegation of real and actual possession a legal conclusion?	023123.docx	LEGALEASE-00129390-LEGALEASE-00129391
Romanus v. Biggs, 217 S.C. 77	307A+501	Motions for nonsuit are not entertained or granted in suits in equity.	Are motions for nonsuit entertained or granted in suits in equity?	Pre-trial Procedure - Memo # 1049 - C - KG.docx	ROSS-003299525-ROSS-003299526

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Roberson v. Rollins, 710 S.W.2d 180	307A+501	Rule governing nonsuits is liberally construed in favor of right to nonsuit. Vernon's Ann.Texas Rules Civ.Proc., Rule 164.	Should the rule recognizing the right of a plaintiff to take a nonsuit be liberally construed?	024999.docx	LEGALEASE-00129356-LEGALEASE-00129357
Margolis v. Clawans, 54 N.J. Super. 472	307A+501	An action can voluntarily be dismissed only by a plaintiff in accordance with the rules. R.R. 4:42-1(a, b), 5:2-1, 7:1-3.	Can an action voluntarily be dismissed only by a plaintiff in accordance with the rules?	Pretrial Procedure - Memo # 1111 - C - CK.docx	ROSS-003313885-ROSS-003313886
Aragona v. Allstate Ins. Co., 41 Misc. 3d 242	307A+501	Absent special circumstances, a party should not be compelled to litigate.	Should a party be compelled to litigate absent special circumstances?	Pretrial Procedure - Memo # 1289 - C - RY.docx	ROSS-003287520-ROSS-003287521
Paepcke-Leicht Lumber Co. v. Berkowsky, 73 Ill. App. 400	307A+501	Plaintiff is entitled to take a nonsuit at any time before entry of the finding.	Is a party entitled to take a nonsuit at any time before entry of the finding?	Pretrial Procedure - Memo # 1313 - C - SB.docx	ROSS-003301212-ROSS-003301213
Weil v. Abeel, 206 S.W. 735	307A+501	The right to take a nonsuit is liberally construed by the courts.	Is the right to take a nonsuit liberally construed by the courts?	Pretrial Procedure - Memo # 1324 - C - SJ.docx	ROSS-003287539-ROSS-003287540
Smith v. Columbian Carbon Co., 145 Tex. 478	307A+501	Rule giving plaintiff right to take a nonsuit should be liberally construed. Rules of Civil Procedure, rule 164.	Is the right to take a nonsuit liberally construed by the courts?	026248.docx	LEGALEASE-00129303-LEGALEASE-00129304
Inland Empire Pub. Lands Council v. U.S. Forest Serv., 88 F.3d 754	149E+689	On review under NEPA, Court of Appeals may only examine whether the agency has taken a hard look at environmental consequences, and only if the agency's analysis of environmental consequences is arbitrary and capricious or contrary to the procedures required by law can it conclude that agency did not take a "hard look." National Environmental Policy Act of 1969, S 102(2)(C), 42 U.S.C.A. S 4332(2)(C).	What are the requirements of The National Environment Policy Act (NEPA)?	Woods and Forests - Memo 42 - RK.docx	ROSS-003288556-ROSS-003288557
State ex rel. U. S. Fid. & Guar. Co. v. Harty, 276 Mo. 583	302+8(13)	In a proceeding concerning duty of an officer, an allegation of duty in terms is a mere legal conclusion, it being necessary to allege facts showing existence of duty, and this is especially true as to duties created by statute.	"Are allegations as to duties created by statute, conclusions of law?"	Pleading - Memo 231 - RMM.docx	ROSS-003286865-ROSS-003286867
Lumbermens Mut. Cas. Co. v. Cont'l Cas. Co., 387 P.2d 104	307A+747.1	Counsel has particular responsibility to assist court at pre-trial so that pre-trial order in final form accomplishes its purpose of clearly defining all issues to be tried and decided.	Is a pre-trial procedure intended to clearly define the issues to be tried before and decided by the trial judge?	026264.docx	LEGALEASE-00129833-LEGALEASE-00129834
Universal Underwriters Ins. Co. v. Superior Court for Los Angeles Cty., 250 Cal. App. 2d 722	307A+742.1	Purpose of pretrial conference orders is to place case in focus for trial. Cal. Rules of Court, rule 216.	What is the purpose of pretrial conference orders?	Pretrial Procedure - Memo # 1369 - C - BP.docx	ROSS-003313077-ROSS-003313078
Downer v. Garland, 21 Vt. 362	2+15	Where the prior defective suit had been entered in court, and the defect pleaded in abatement, and the plaintiff, during the term at which the plea was filed, gave to the defendant a written notice of the discontinuance of the suit, and immediately caused the writ in the second suit to be served, and subsequently, at the same term, entered upon the docket of the court a discontinuance of the first suit, it was held that the second suit was not vexatious, and would not be abated by the pendency of the prior suit.	"If a party bring a defective suit, upon discovering the defect, can he discontinue that suit and bring another?"	Pretrial Procedure - Memo # 1374 - C - MS.docx	ROSS-003300504-ROSS-003300505

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Saunders v. Coffin, 16 Ala. 421	307A+531	The court cannot compel the plaintiff to submit to a nonsuit without his consent.	Can the court compel the plaintiff to submit to a nonsuit without his consent?	026613.docx	LEGALEASE-00130036-LEGALEASE-00130037
Volk v. Brame, 235 Ariz. 462	92+3885	When the court allows no time to hear testimony, or when the time available for each necessary witness does not allow for meaningful direct testimony and efficient but adequate cross-examination, the court violates the parties' due process rights. U.S.C.A. Const.Amend. 14.	"If, during the progress of a scheduled hearing, it becomes apparent that the court lacks sufficient time to receive adequate testimony, should the court allow reasonable additional time or continue the hearing to permit it to perform its essential tasks?"	026678.docx	LEGALEASE-00129858-LEGALEASE-00129859
Joe Williamson Const. Co. v. Raymondville Indep. Sch. Dist., 251 S.W.3d 800	307A+517.1	A non-suit is effective as soon as the plaintiff files a motion for non-suit.	Is a non-suit effective as soon as the plaintiff files a motion for non-suit?	Pretrial Procedure - Memo # 2407 - C - ES.docx	ROSS-003287514-ROSS-003287515
Okeson v. City of Seattle, 150 Wash. 2d 540	371+2001	Generally speaking, taxes are imposed to raise money for the public treasury.	Are taxes imposed to raise money?	Taxation - Memo # 202 - C - Kl.docx	ROSS-003300278-ROSS-003300279
People v. Morales, 55 Misc. 3d 59	399+1	Statute prohibiting person from loitering or remaining in transportation facility, unless specifically authorized, for purpose of soliciting or engaging in any business, trade, or commercial transactions involving sale of merchandise or services, or for entertaining by singing, dancing, or playing any musical instrument, was not unconstitutionally vague; statute was sufficiently definite to give person of ordinary intelligence fair notice that his contemplated conduct was forbidden, statute provided explicit standards so as to avoid resolution on ad hoc subjective basis, with attendant dangers of arbitrary and discriminatory application, and statute was not inherently contradictory by proscribing loitering with specific purpose, which was hallmark of constitutionality, not infirmity. McKinney's Penal Law S 240.35(6).	Is the loitering statute constitutionally vague?	047454.docx	LEGALEASE-00129801-LEGALEASE-00129802
Taylor v. Dixie Plywood Co. of Miami, 297 So. 2d 553	413+1	Technical excuses for denying workmen's compensation are not favored.	Are technical excuses for denying workmens compensation favored by law?	Workers Compensation - Memo #156 ANC.docx	LEGALEASE-00020090-LEGALEASE-00020091
S.A. Mineracao Da Trindade-Samitri v. Utah Int'l, 745 F.2d 190	25T+143	Unless excluded, claims of fraud in the inducement of a contract are arbitrable.	Are claims of fraud in the inducement of a contract arbitrable?	007413.docx	LEGALEASE-00131374-LEGALEASE-00131375
State v. Rosencrans, 24 Wash. 2d 775	67+9(1)	The gist of burglarious "breaking" is the application of force to remove some obstacle to entry, and the amount of force employed is immaterial; the slightest force being sufficient.	What constitutes burglarious breaking?	Burglary - Memo 82 - JK.docx	ROSS-003327929-ROSS-003327930
Burrell v. State, 18 Tex. 713	210+833	Aggravated robbery is not a lesser included offense of burglary.	Is aggravated robbery a lesser included offense of burglary?	Burglary - Memo 91 - JK.docx	ROSS-003327235-ROSS-003327237
Gorney v. Gorney, 136 Ind. App. 96	302+8(15)	Term "fraud" need not be used in the pleading if facts are alleged which show fraud.	Should the term fraud be used in the pleading?	023178.docx	LEGALEASE-00131113-LEGALEASE-00131114
Des Moines Joint Stock Land Bank of Des Moines v. Danson, 206 Iowa 897	307A+501	Right to dismiss without prejudice may be exercised, provided action is not split.	Does an appellant have a right to dismiss its cause of action without prejudice?	Pretrial Procedure - Memo # 1463 - C - SK.docx	ROSS-003313114-ROSS-003313115

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Sigala v. Anaheim City Sch. Dist., 15 Cal. App. 4th 661	307A+742.1	Major purpose of settlement conference is not to "clear the docket," but to achieve justice.	What is the Major purpose of settlement conference?	Pretrial Procedure - Memo # 1478 - C - ES.docx	ROSS-003328289-ROSS-003328290
Knighten v. Knighten, 447 So. 2d 534	307A+721	Trial court did not err in refusing to grant a continuance to curatrix of husband's estate in connection with curatrix's third-party legal malpractice demand, because curatrix merely argued that she was unable to obtain evidence material to her case, but she failed to assert what evidence she was unable to obtain or how that evidence was material. LSA-C.C.P. arts. 1601, 1602.	"Should a party who seeks a continuance because he was unable to obtain material evidence, show what evidence he could not obtain?"	027507.docx	LEGALEASE-00130679-LEGALEASE-00130680
State v. Jackman, 60 Wis. 2d 700	371+2001	"Tax" is charge whose primary purpose is to obtain revenue.	Is the primary purpose of a tax to obtain revenue?	044696.docx	LEGALEASE-00130754-LEGALEASE-00130755
City & Cty. of San Francisco v. Flying Dutchman Park, 122 Cal. App. 4th 74	371+2001	A distinction is made between the taxation of real estate ownership on an ad valorem basis, and a tax on the use of that real property; a tax on the separate use of the property, known as an "excise tax," is permissible, and does not constitute double taxation. West's Ann.Cal. Const. Art. 13, S 1.	What is excise tax?	Taxation - Memo # 185 - C - SS.docx	ROSS-003304033-ROSS-003304034
Jackson v. Quanex Corp., 889 F. Supp. 1007	231H+1516	In the Sixth Circuit, Federal Arbitration Act (FAA) exempts from its coverage "contracts of employment of . . . any . . . class of workers employed in . . . interstate commerce," under broadest possible constitutional meaning of phrase "interstate commerce." 9 U.S.C.A. S 1 et seq.	Are the collective bargaining agreements outside the scope of the Federal Arbitration Act (FAA)?	Alternative Dispute Resolution - Memo 572 - RK.docx	ROSS-003287034-ROSS-003287035
Jackson v. Quanex Corp., 889 F. Supp. 1007	231H+1516	In the Sixth Circuit, Federal Arbitration Act (FAA) exempts from its coverage "contracts of employment of . . . any . . . class of workers employed in . . . interstate commerce," under broadest possible constitutional meaning of phrase "interstate commerce." 9 U.S.C.A. S 1 et seq.	Are the collective bargaining agreements outside the scope of the Federal Arbitration Act (FAA)?	007476.docx	LEGALEASE-00132395-LEGALEASE-00132396
Pitcher v. Laird, 421 F.2d 1272	34+2	Army cannot apply regulations in arbitrary or capricious manner.	Is the Army allowed to apply regulations in an arbitrary or capricious manner?	008893.docx	LEGALEASE-00132407-LEGALEASE-00132408
Reed v. Franke, 187 F. Supp. 905	34+2	The Armed Forces are free to regulate their internal affairs.	Are the armed force free to regulate their internal affairs?	008897.docx	LEGALEASE-00132411-LEGALEASE-00132412
L-3 Commc'ns EOTech v. United States, 85 Fed. Cl. 667	34+3(1)	Courts are especially deferential to discretionary decisions of the military in times of war.	Are the courts deferential to military decisions?	Armed Services - Memo 69 - RK.docx	ROSS-003300563-ROSS-003300564
Koch v. Seventh St. Realty Corp., 205 Va. 65	184+49	Facts out of which fraud arises must be alleged as well as proved to justify relief on that ground.	Is fraud a conclusion of law from facts?	023224.docx	LEGALEASE-00132256-LEGALEASE-00132257
Nelson v. Nelson, 288 Kan. 570	307A+749.1	When there has been no attempt to modify the pretrial order, it is binding and controls the later course of litigation. Rules Civ.Proc., K.S.A. 60-216(e).	Is a pretrial order binding on the parties?	027171.docx	LEGALEASE-00132069-LEGALEASE-00132070
Hullman v. Bd. of Trustees of Pratt Cmty. Coll., 732 F. Supp. 91	170A+1938.1	Pretrial order supersedes pleadings and controls subsequent course of litigation. Fed.Rules Civ.Proc.Rule 16(e), 28 U.S.C.A.	Does a pretrial order supersede pleadings?	027240.docx	LEGALEASE-00131801-LEGALEASE-00131802

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Payne v. Matthews, 633 S.W.2d 494	307A+517.1	Any additional suits filed after taking of any nonsuit to original action must be filed within one year of first nonsuit regardless of whether initial conclusive dismissal or nonmerits dismissal was a voluntary nonsuit or a dismissal without prejudice for want of prosecution. T.C.A. SS 28-1-105, 28-3-104, 28-3-105; Rules Civ.Proc., Rule 41.01 et seq.	"When a voluntary nonsuit is taken, are the rights of the parties adjudicated, and the parties are placed in their original positions prior to the filing of the lawsuit?"	Pretrial Procedure - Memo # 2280 - C - SHB.docx	LEGALEASE-00021819-LEGALEASE-00021820
Allen v. Samuels, 204 Cal. App. 2d 710	307A+749.1	A pretrial conference order, where inconsistent with complaint, will supersede the complaint.	"Will a pretrial conference order, where inconsistent with a complaint, supersede the complaint?"	Pretrial Procedure - Memo # 2286 - C - SK.docx	ROSS-003327921-ROSS-003327922
Hoyt Properties v. Prod. Res. Grp., 716 N.W.2d 366	307A+517.1	A district court has discretion to determine whether a voluntary dismissal should be with prejudice. 48 M.S.A., Rules Civ.Proc., Rule 41.01(a).	"Is a court, in its discretion, allowed to rule that a voluntary dismissal will be with prejudice?"	027778.docx	LEGALEASE-00132147-LEGALEASE-00132148
In re Det. of G.V., 124 Wash. 2d 288	307A+517.1	Governed by civil rule relating to voluntary dismissals, "voluntary nonsuit" is dismissal of action by court on motion of plaintiff made before plaintiff has rested, and it can be with or without prejudice but is presumed to be without prejudice unless order of dismissal otherwise states. CR 41(a)(1)(B).	"When a plaintiff moves for a voluntary dismissal, presumptively the dismissal will be without prejudice to the plaintiff's right to refile the action; however, does the rule, guarantee that the dismissal will be without prejudice?"	027849.docx	LEGALEASE-00132136-LEGALEASE-00132137
Cook v. Stewart McKee & Co., 68 Cal. App. 2d 758	307A+517.1	When plaintiff voluntarily dismisses action against a sole defendant, it is as though no action had ever been filed, and thereafter defendant is a stranger to the action. West's Ann.Code Civ.Proc. S 581.	"After a voluntary dismissal, is the defendant a stranger to the action?"	Pretrial Procedure - Memo # 2393 - C - KS.docx	ROSS-003288238-ROSS-003288239
City of Marion v. Weitenhagen, 361 N.W.2d 323	307A+749.1	A pretrial order controls subsequent court action. Rules Civ.Proc., Rule 138.	Does a pretrial order control a subsequent court action?	Pretrial Procedure - Memo # 2404 - C - ES.docx	LEGALEASE-00021999-LEGALEASE-00022000
Fitzsimmons v. Jones, 179 Cal. App. 2d 5	307A+749.1	Pretrial order controls inconsistent pleading, and trial court could not supersede pretrial order, which defined issues, by holding that pleadings failed to tender issue and rendering judgment for plaintiff on pleadings. West's Ann.Code Civ.Proc. S 473.	Is an issue expressly stated in a pretrial record considered to be before the court?	028086.docx	LEGALEASE-00132210-LEGALEASE-00132211
Stroman v. Tautenhahn, 465 S.W.3d 715	307A+517.1	A nonsuit terminates a case from the moment the notice of nonsuit is filed. Tex. R. Civ. P. 162.	Does a nonsuit terminate a case from the moment the notice of nonsuit filed?	Pretrial Procedure - Memo # 2527 - C - SB.docx	ROSS-003313580-ROSS-003313581
In re Farrell, 211 F. 212	371+2001	A "tax" is a pecuniary burden imposed for the support of the government, and is the enforced proportionate contribution of persons and property levied for the government's support and for all public things.	"What is a pecuniary burden imposed upon a class of individuals, businesses, or other entities for support of government called?"	044661.docx	LEGALEASE-00131582-LEGALEASE-00131583
Jensen v. Henneford, 185 Wash. 209	361+1009	Legislative body cannot change real nature and purpose of act by giving it a different title or by declaring its nature and purpose to be otherwise.	Is the character of a tax determined by its incidents?	Taxation - Memo # 206 - C - KI.docx	LEGALEASE-00022103-LEGALEASE-00022104
Jensen v. Henneford, 185 Wash. 209	361+1009	Legislative body cannot change real nature and purpose of act by giving it a different title or by declaring its nature and purpose to be otherwise.	Is the character of a tax determined by its name?	044792.docx	LEGALEASE-00131499-LEGALEASE-00131500
Cooper v. City of Charleston, 218 W. Va. 279	371+2001	The character of a tax is determined not by its label, but by analysis of its operation and effect.	Is the character of a tax determined by analysis of its operation and effect?	044840.docx	LEGALEASE-00131618-LEGALEASE-00131619

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Matter of O.W. Ltd. P'ship, 4 Haw. App. 487	371+3642	In determining tax liability, substance of a transaction, rather than its form, governs.	Is it the substance that determines tax liability in tax matters?	Taxation - Memo # 266 - C - SU.docx	ROSS-003301940
O'Donnell v. Reivitz, 144 Wis. 2d 717	371+2001	"Tax" is an exaction, usually of money, by government to support government. W.S.A. Const. Art. 8, S 1.	"Is tax an exaction, usually of money, by government to support government?"	044888.docx	LEGALEASE-00131758-LEGALEASE-00131759
Chicago & N. W. Transp. Co. v. Webster Cty. Bd. of Sup'rs, 880 F. Supp. 1290	371+2001	Mere fact that statute raises revenue does not make it a "tax," nor does deposit of revenue raised into general fund necessarily make the levy a "tax."	"Does the fact that a statute raises revenue make it a ""tax""?"	044900.docx	LEGALEASE-00131833-LEGALEASE-00131834
Centerre Bank of Crane v. Dir. of Revenue, 744 S.W.2d 754	371+2001	Nature of tax is determined not by character of tax it displaces, but rather, by manner in which it is imposed.	Is the nature of a tax determined by the character of the tax it displaces?	044904.docx	LEGALEASE-00131949-LEGALEASE-00131950
Centerre Bank of Crane v. Dir. of Revenue, 744 S.W.2d 754	371+2001	Nature of tax is determined not by character of tax it displaces, but rather, by manner in which it is imposed.	Is the nature of tax determined by the manner in which it is imposed?	Taxation - Memo # 278 - C - SS.docx	ROSS-003304067-ROSS-003304068
City of N. Little Rock v. Graham, 278 Ark. 547	371+2001	"Taxes" are enforced burdens exacted pursuant to statutory authority.	Are taxes exacted pursuant to statutory authority?	Taxation - Memo # 309 - C - CK.docx	ROSS-003331043-ROSS-003331044
Forsberg v. City of Chicago, 151 Ill. App. 3d 354	371+2001	A tax is not an assessment of benefits, but instead is a means of distributing the burden of the cost of government.	Is tax an assessment of benefits?	Taxation - Memo # 321 - C - KI.docx	LEGALEASE-00022287-LEGALEASE-00022288
Reis v. Douglas Cty. Hosp., 193 Neb. 542	413+1	Strict fulfillment of requirement of Workmen's Compensation Act is necessary. R.R.S.1943, S 48-101 et seq.	Is strict fulfillment of the requirements of the Workmens Compensation Act necessary?	047812.docx	LEGALEASE-00131738-LEGALEASE-00131739
Sadelmi Joint Venture v. Dalton, 5 F.3d 510	226H+3	"Joint venture" entails legal consequences similar to those of partnership.	Are the legal consequences of a joint venture equivalent to that of a partnership?	022057.docx	LEGALEASE-00133448-LEGALEASE-00133449
In re Norwest Bank of New Mexico, N.A., 134 N.M. 516	307A+750	Generally, only those theories of liability contained in a pretrial order will be considered at trial.	What theories of liability will be considered at trial?	Pretrial Procedure - Memo # 1857 - C - SHB.docx	ROSS-003286385-ROSS-003286386
Kromat v. Vestevich, 14 Mich. App. 291	307A+747.1	Pretrial statement, when signed by the judge, is considered an order of court.	Can a pretrial statement be considered as an order of a court?	027103.docx	LEGALEASE-00133235-LEGALEASE-00133236
Rehman v. ECC Int'l Corp., 698 So. 2d 921	307A+517.1	Voluntary dismissal terminates pending action instantaneously.	Does voluntary dismissal terminate pending action instantaneously?	028564.docx	LEGALEASE-00132671-LEGALEASE-00132672
Juengain v. Tervalon, 223 So. 3d 1174	307A+517.1	A dismissal without prejudice is considered as if the suit has never been filed.	"Is an action treated as if it never had been filed, following a voluntary dismissal without prejudice?"	Pretrial Procedure - Memo # 2853 - C - NS.docx	ROSS-003288158-ROSS-003288159
Food Lion v. Capital Cities/ABC, 194 F.3d 505	386+25	Under North Carolina and South Carolina law, consent to enter is canceled out, and does not serve as defense to claim of trespass, if a wrongful act is done in excess of and in abuse of authorized entry.	Is consent a defense to a claim of trespass?	Trespass - Memo 226 - RK.docx	ROSS-003286896
Hinman v. Pac. Air Lines Transp. Corp., 84 F.2d 755	386+57	Ordinarily, landowner is entitled to at least nominal damages for trespass without showing any actual damages.	Can nominal damages can be awarded when the amount of actual injury is unclear in a trespass action?	047330.docx	LEGALEASE-00133403-LEGALEASE-00133404

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Koprowski v. Baker, 822 F.3d 248	393+1456	Inmate Accident Compensation Act (IACA), a workers' compensation scheme that covered federal prisoners injured during the course of their prison employment, did not preclude former federal prisoner, who severely injured his back when he fell off a ladder while working in the food-service area of the prison, from bringing Bivens claim for money damages alleging that prison officials were deliberately indifferent to his serious medical needs in violation of Eighth Amendment. U.S.C.A. Const.Amend. 8; 18 U.S.C.A. S 4126(c).	"Historically, were workmens compensation statutes the offspring of a desire to give injured workers quicker and more certain recovery than could be obtained from tort suits, and were they practically always thought of as substitutes for, not supplements to, common-law tort actions?"	047861.docx	LEGALEASE-00132905- LEGALEASE-00132907
Knaggs v. City of Lexington, 171 Neb. 135	413+1	Each case arising under Workmen's Compensation Act must stand on its own facts. R.R.S.1943, S 48-101 et seq.	Should each compensation case stand on its own facts?	047889.docx	LEGALEASE-00133032- LEGALEASE-00133033
United States v. Mirikitani, 380 F.3d 1223	63+1(1)	The existence of a nexus between the bribe and some federal money is not an element of the offense of bribery that must be proven to the jury beyond a reasonable doubt. 18 U.S.C.A. S 666.	Is the existence of a nexus between a bribe and some federal money an element of bribery?	011207.docx	LEGALEASE-00133893- LEGALEASE-00133894
Merchants Nat. Bank of Aurora v. Frazier, 329 Ill. App. 191	308+3(5)	An agent, as such, does not have title to the property of the principal, though he may be intrusted with possession and though he may have power to pass title.	Does Agent have title to the property of the principal?	Principal and Agent - Memo 79 - KC.docx	ROSS-003291214-ROSS- 003291215
State v. Hunt Oil Co., 49 Ala. App. 445	371+2121	Unavoidable inequalities which are due only to inequalities in business conditions and activities are not sufficient to render a tax statute invalid.	Can a legislation upon the subject of taxation be declared invalid?	045121.docx	LEGALEASE-00133900- LEGALEASE-00133901
Wightman v. Hart, 37 Ill. 123	83E+413	The transfer of a note by indorsement is prima facie evidence that a consideration was paid.	Is the assignment of a note a prima facie evidence that the consideration was paid?	009456.docx	LEGALEASE-00134202- LEGALEASE-00134203
State Sav. Bank of Leavenworth v. Krug, 108 Kan. 108	83E+405	Where the name of the indorser placed on the back of the instrument with a rubber stamp by one authorized to do so with intent to indorse it is a valid "indorsement" within Negotiable Instrument Law, SS 37, 38, Gen.St.1915, SS 6557, 6558, and in view of Gen.St.1915, S 10973, subd. 18.	Is affixing a rubber stamp to an instrument is sufficient in law to fulfill the requirement of indorsement?	009491.docx	LEGALEASE-00134647- LEGALEASE-00134648
Gray v. Am. Exp. Co., 34 N.C. App. 714	8.30E+60	Under the Uniform Commercial Code, a negotiable instrument is not incomplete and unenforceable because it is not dated. G.S. S 25-3-115.	Which law governs the negotiable instrument if it is undated?	Bills and Notes -Memo 291 -DB.docx	LEGALEASE-00023869- LEGALEASE-00023870
Potter v. Tucker, 11 Ala. App. 466	8.30E+60	Date in general is not essential to a bill or note; if there be no date it will be considered as dated at the time it was made.	How is the actual date considered when no date is mentioned in a bill or note?	010234.docx	LEGALEASE-00134722- LEGALEASE-00134723
Fleming, etc. v. Sierra, 14 Teiss. 168	8.30E+60	When no date is expressed in the bill or note, it dates from the day when it was made or issued or from delivery.	What happens when no date is expressed in the bill or note?	Bills and Notes -Memo 298 -DB.docx	ROSS-003303812
State v. Hicks, 421 So. 2d 510	67+15	Consent to entry is affirmative defense to, rather than essential element of, burglary. West's F.S.A. S 810.02(1).	Is consent to entry a defense to burglary?	Burglary - Memo 145 - JS.docx	ROSS-003331013-ROSS- 003331015
S. Indiana Gas & Elec. Co. v. Dep't of Highways, State of Ind., 533 N.E.2d 1289	200+80	In absence of statutory provision to the contrary, ownership of public highways lies in State.	Does the ownership of the public way lie with the state?	Highways -Memo 101 - DB.docx	LEGALEASE-00023978- LEGALEASE-00023980
S. Indiana Gas & Elec. Co. v. Dep't of Highways, State of Ind., 533 N.E.2d 1289	200+80	In absence of statutory provision to the contrary, ownership of public highways lies in State.	Does the ownership of the public way lie with the state?	Highways -Memo 101 - DB.docx	ROSS-003316311-ROSS- 003316313

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Haugh v. Simms, 64 Mass. App. Ct. 781	200+80	Whether a way is public or private is based on the use of the way, not solely on who owns it.	What determines whether a way is public or private?	Highways -Memo 107-DB.docx	ROSS-003316316-ROSS-003316317
Caggiano v. Fontoura, 354 N.J. Super. 111	307A+517.1	While a voluntary dismissal may be a judgment, it is not necessarily a final judgment; the additional inquiry must be whether the stipulation of dismissal ended the case on all issues as to all parties. R. 2:2-3(a)(1); R. 4:37-1(b).	"While a voluntary dismissal may be a judgment, is it necessarily a final judgment?"	028423.docx	LEGALEASE-00133984-LEGALEASE-00133985
Farr Man & Co. v. M/V Rozita, 903 F.2d 871	170A+1686	Order allowing shipowner, after trial had begun, to withdraw its admissions of liability to charterer for cargo damage was not abuse of discretion; facts had come to light from which it could be determined that charterer's damages were substantially less than amount admitted to. Fed.Rules Civ.Proc.Rule 36(b), 28 U.S.C.A.	"Although district courts have considerable discretion over whether to permit withdrawal or amendment of admissions made pursuant to rule governing requests for admission, once trial has begun, may a court grant a motion to withdraw only if it determines that doing so is necessary to prevent manifest injustice?"	028691.docx	LEGALEASE-00134005-LEGALEASE-00134006
Motor Car Classics v. Abbott, 316 S.W.3d 223	307A+486	Undue prejudice bars withdrawal of deemed admissions. Vernon's Ann.Texas Rules Civ.Proc., Rule 198.3.	Does undue prejudice bar a withdrawal of deemed admissions?	029025.docx	LEGALEASE-00134131-LEGALEASE-00134132
Watson v. Dallas Indep. Sch. Dist., 135 S.W.3d 208	307A+486	A party shows good cause for the withdrawal of deemed admissions by showing that its failure to answer was accidental or the result of a mistake, rather than intentional or the result of conscious indifference. Vernon's Ann.Texas Rules Civ.Proc., Rule 198.3.	"Is good cause justifying the withdrawal or amendment of an admission established by showing that the failure involved was an accident or mistake, not intentional or the result of conscious indifference?"	Pretrial Procedure - Memo # 3156 - C - RY.docx	LEGALEASE-00024460-LEGALEASE-00024461
Robertson v. State, 392 S.W.3d 1	257A+454	Offender's prior conviction for deviate sexual assault in the first degree was not conviction of "sexually violent offense" for purposes of state's motion for his involuntary commitment as a sexually violent predator (SVP), as involuntary commitment statute referred only to "deviate sexual assault" without reference to degree, although other sexual offenses were referred to by degree where applicable, multiple degrees of same offense were separately listed rather than being referred to by their common offense designator, and other offenses which not longer existed on effective date of involuntary commitment statute were separately listed. V.A.M.S. S 632.480(4).	When does a person commit the crime of deviate sexual assault in the first degree?	Sex Offence - Memo 73 - SB.docx	LEGALEASE-00024589-LEGALEASE-00024590
Ropo v. City of Seattle, 67 Wash. 2d 574	371+2001	Character of a particular tax is not determined by the mode adopted for its payment.	Is the character of a tax being imposed determined by mode adopted in fixing its amount?	045011.docx	LEGALEASE-00134513-LEGALEASE-00134514
Hamilton Nat. Bank v. Richardson, 42 Tenn. App. 486	371+2001	A tax is not predicated on contract and cannot be discharged by reason of contractual considerations.	Can a tax be discharged by reason of contractual considerations?	045058.docx	LEGALEASE-00134270-LEGALEASE-00134271
People ex rel. Froelick v. Graves, 259 A.D. 30	371+3522	Under statutes imposing an unincorporated business tax the legislature intended that such tax should be an emergency income tax based on entire net income of unincorporated businesses, and the tax falls within provision of statute prohibiting deduction of "income taxes" in computing net income subject to personal income tax. Tax Law, S 360, subd. 3, and S 386-j.	Is the name by which the tax is described in the statute immaterial?	Taxation - Memo # 446 - C - SS.docx	ROSS-003291814-ROSS-003291815
Ivory v. Int'l Bus. Machines Corp., 116 A.D.3d 121	386+10	The elements of a trespass cause of action are an intentional entry onto the land of another without permission.	What does a trespass claim represent?	Trespass - Memo 270 - SB.docx	ROSS-003290977-ROSS-003290978

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Coppola v. Smith, 935 F. Supp. 2d 993	405+1126	Owner and operator of dry cleaning business made no factual allegations that water utility acted unreasonably as to any aspect of subject well, let alone in failure to detect and abate perchloroethylene (PCE) contamination nuisance, precluding its California-law claims for private, public, continuing, and per se nuisance claims; owner and operator offered only vague allegation that utility operated well and that such operation caused spread of hazardous substance. West's Ann.Cal.Civ.Code SS 3479, 3480.	"Can failure to clean up contamination that causes ongoing damage to property constitute a continuing nuisance, and a continuing trespass?"	047398.docx	LEGALEASE-00134797-LEGALEASE-00134798
GATX Mgmt. Servs. v. Weakland, 171 F. Supp. 2d 1159	25T+146	Arbitration clause in employment agreement which provided that any and all claims relating to agreement or relationship under agreement were arbitrable extended to employer's claim that former employee, as officer of employer, tortiously induced other employees to breach their employment contracts and work for competitor, as such claim "related to" the employment relationship with employer.	"Do courts consider an arbitration clause in an employment contract as broad, if it covers issues other than those arising under the employment contract?"	007526.docx	LEGALEASE-00135780-LEGALEASE-00135782
Chambers v. Groome Transp. of Alabama, 41 F. Supp. 3d 1327	25T+200	On a motion to compel arbitration, issues of whether an arbitration agreement is a written agreement involving interstate commerce as required by the Federal Arbitration Act (FAA), whether the arbitration agreement is unenforceable for lack of mutual assent or because it is unconscionable, and whether the scope of the arbitration agreement covers federal statutory claims or claims predicated on conduct that preexists the making of the arbitration agreement are presumptively for the court to decide, unless there is an agreement to the contrary between the contracting parties. 9 U.S.C.A. S 2.	Does an arbitration agreement have to specifically list every federal or state statute it purports to cover?	Alternative Dispute Resolution - Memo 621 - SB.docx	ROSS-003303737-ROSS-003303739
Chambers v. Groome Transp. of Alabama, 41 F. Supp. 3d 1327	25T+200	On a motion to compel arbitration, issues of whether an arbitration agreement is a written agreement involving interstate commerce as required by the Federal Arbitration Act (FAA), whether the arbitration agreement is unenforceable for lack of mutual assent or because it is unconscionable, and whether the scope of the arbitration agreement covers federal statutory claims or claims predicated on conduct that preexists the making of the arbitration agreement are presumptively for the court to decide, unless there is an agreement to the contrary between the contracting parties. 9 U.S.C.A. S 2.	Does an arbitration agreement have to specifically list every federal or state statute it purports to cover?	007540.docx	LEGALEASE-00135798-LEGALEASE-00135800
United States v. Bonito, 57 F.3d 167	63+1(1)	Current as well as former version of federal statute proscribing bribery of officials of public and private entities receiving federal funds applies to both gratuities and bribes, so long as intent to reward is corrupt. 18 U.S.C.A. S 666(a)(2).	Does Section 666 of the bribery statute apply to both gratuities and bribes?	Bribery - Memo #369 - C-JL.docx	ROSS-003290367-ROSS-003290368

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
McElreath v. State, 55 Ga. 562	67+20	As a mill house is not one of the buildings expressly mentioned in the statute defining burglary, and as it may or may not be a place of business, an indictment for burglary which alleges the offense to have been committed by breaking and entering a mill house with intent to steal, and which neither by description nor substantial averment designates the house as a place of business, is fatally defective, and judgment thereon will be arrested.	Is breaking and entering a place of business considered a burglary?	Burglary - Memo 111 - JS.docx	ROSS-003330997-ROSS-003330998
State v. Bussard, 494 S.W.2d 401	67+2	Address of a dwelling house is not an essential element of crime of burglary in second degree as long as such house is sufficiently identified. Sections 560.045, 560.110 RSMo 1969, V.A.M.S.	Is an address of the location a necessary element of burglary?	012636.docx	LEGALEASE-00135838-LEGALEASE-00135840
Davis v. Com., 132 Va. 521	67+9(1)	Breaking, as an element of the crime of burglary, may be either actual or constructive, there being a constructive breaking when an entrance has been obtained by threat of violence, by fraud, or by conspiracy, and an actual breaking where there is the application of some force, slight though it may be, whereby the entrance is effected, and may be the mere pushing open of a door, turning a key, lifting a latch, or use of slight physical force.	Can the breaking in a burglary be actual and constructive?	Burglary - Memo 126 - JS.docx	ROSS-003316265-ROSS-003316267
United States v. Sanders, 705 F. Supp. 396	350H+1263	All attempt burglaries were "violent felonies" for purposes of provision authorizing an enhanced sentence for convicted felon who possessed a firearm which has traveled in interstate commerce and who had three previous convictions for a violent felony or serious drug offense; like burglaries, attempted burglaries involved a risk that the property owner might return, and neighbor might investigate, or a law enforcement official might respond, presenting the possibility of injury. 18 U.S.C.A. S 924(e)(2)(B), (e)(2)(B)(i, ii).	Is attempted burglary a violent felony?	Burglary - Memo 134 - JS.docx	ROSS-003331007-ROSS-003331009
Fritcher v. Kelley, 34 Idaho 471	302+8(16)	Facts constituting undue influence must be pleaded, and mere conclusions are insufficient.	Should facts constituting undue influence be pleaded?	Pleading - Memo 320 - RMM.docx	ROSS-003290246-ROSS-003290248
Am. Fed'n of State, Cty. & Mun. Employees v. Metro. Water Dist. of S. California, 126 Cal. App. 4th 247	307A+485	Metropolitan water district did not waive its right to cost-of-proof fees and expenses, based on its failure to move to compel further responses, in a dispute involving the grievance procedure under a memorandum of understanding (MOU) between district and union; union's admissions and denials provided complete responses to the requests, thus leaving nothing to address in a motion to compel. West's Ann.Cal.C.C.P. S 2033.	Will a plaintiff be entitled to costs associated with proving need for future medical care if the plaintiff made no motion to compel a further response after defendant objected to request for admission of that fact?	Pretrial Procedure - Memo # 3487 - C - NS.docx	ROSS-003318653-ROSS-003318654
Pope v. United States, 15 Cl. Ct. 218	34+12	Army has discretionary authority to choose whether to reinstate a reserve officer to active duty. 10 U.S.C.A. SS 681(a), 1211, 1211(a)(1, 2, 4).	Does the Army have discretion in both releasing and reinstating a reserve officer from or to active duty?	008485.docx	LEGALEASE-00137010-LEGALEASE-00137011
Sims v. State, 131 Ark. 185	63+10	In determining guilt of state senator for receiving bribe to defeat bill, evidence that he had entered a conspiracy to introduce bills to extort money for their defeat may be considered.	"Is the guilt of a state senator or officer receiving a bribe, on the understanding that his official conduct should be influenced, affected by the absence of intent to bribe on the part of the persons furnishing the money paid to him?"	011707.docx	LEGALEASE-00136644-LEGALEASE-00136645

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United States v. Jennings, 160 F.3d 1006	63+1(1)	"Corrupt intent," with which payment must be made in order for payment to be a bribe for purposes of statute prohibiting bribery of public officials and witnesses, is the intent to receive a specific benefit in return for the payment. 18 U.S.C.A. S 201(b)(1)(A).	What is the definition of corrupt intent under the bribery statute?	Bribery - Memo #459 - C-JL.docx	ROSS-003290130-ROSS-003290132
8182 Maryland Associates, Ltd. Partnership v. Sheehan, 14 S.W.3d 576	289+929	Under common law, a partnership is dissolved by the admission of a new partner.	Is a partnership dissolved upon admission of a new partner?	022271.docx	LEGALEASE-00136369-LEGALEASE-00136370
Luellen v. City of Aberdeen, 20 Wash. 2d 594	296+2	A "pension" is a gratuity extended to an individual by his sovereign as a reward for past services.	Is pension a reward for past services?	022802.docx	LEGALEASE-00136720-LEGALEASE-00136721
Baillio v. Wilson, 6 Mart.(n.s.) 334	307A+716	The sickness of principal counsel is good cause for a continuance.	Is the sickness of principal counsel good cause for a continuance?	029360.docx	LEGALEASE-00136138-LEGALEASE-00136139
Harrison v. Harrison, 367 S.W.3d 822	134+145	Denial of wife's motion for continuance to obtain new counsel, in divorce action, after wife's attorney was permitted to withdraw 40 days before trial over wife's objection was abuse of discretion; attorney sought to withdraw due to nonpayment of fees but amount of fees due was not clearly established, there was no evidence that wife was able to pay attorney fees but refused to do so, attorney could have filed motion for interim fees in order to prevent prejudice to wife but did not do so, and although wife had previously hired and fired five other attorneys, there was no evidence that case was delayed as result. V.T.C.A., Family Code S 6.502(a)(4); Vernon's Ann.Texas Rules Civ.Proc., Rule 10.	"When the ground specified in a motion for a continuance is the withdrawal of counsel, must movants show that the failure to be represented at trial was not due to their own fault or negligence?"	Pretrial Procedure - Memo # 3390 - C - BP.docx	ROSS-003290785-ROSS-003290786
Kimberly D.-D. v. Arizona Dep't of Econ. Sec., 234 Ariz. 207	211+2064	Attorney illness can constitute extraordinary circumstances justifying delay of a child dependency adjudication hearing. A.R.S. S 8-842(C).	"Can attorney illness constitute extraordinary circumstances warranting a continuance of trial, even when the delays concern the statute of limitations or a motion to set aside a judgment?"	029474.docx	LEGALEASE-00136504-LEGALEASE-00136505
Greenway v. Heathcott, 294 P.3d 1056	307A+716	Denial of pro se plaintiff's April motion for continuance "at least until September" so her "chosen attorney" could represent her, was not abuse of discretion, in action against former boyfriend for identity theft, breach of domestic partnership, and breach of fiduciary duties; she filed motion three days before trial, lawsuit was more than three and one-half years old, "chosen" lawyer was judicial law clerk whose clerkship would end in August, law clerk did not confirm his willingness to represent plaintiff, plaintiff did not support her motion with affidavit, her assertion that "previous hopes to obtain an attorney have not panned out" did not demonstrate that she exercised diligence in obtaining representation after prior counsel withdrew two years earlier, there was concern for witness' fading memory and failing health, loss of evidence, and staleness of events that occurred "up to 17 years ago," and if trial court granted continuance, case would be delayed for at least one year in order to allow counsel to re-open discovery. Rules Civ.Proc., Rule 40(e)(2).	Does a continuance for the purpose of finding and obtaining counsel require a showing of diligence?	029478.docx	LEGALEASE-00136519-LEGALEASE-00136520

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Carroll & Downs v. Groover, 27 Ga. App. 747	307A+716	Refusal of a motion to continue a case because of the absence of leading counsel, who was in attendance upon the United States court, held not error.	"Is the continuance of cases on account of the absence of counsel not favored, and such absence is no cause for postponement, unless in cases of necessity or misconception?"	Pretrial Procedure - Memo # 3598 - C - VP.docx	ROSS-003291701-ROSS-003291702
Harrison v. Harrison, 367 S.W.3d 822	134+145	Denial of wife's motion for continuance to obtain new counsel, in divorce action, after wife's attorney was permitted to withdraw 40 days before trial over wife's objection was abuse of discretion; attorney sought to withdraw due to nonpayment of fees but amount of fees due was not clearly established, there was no evidence that wife was able to pay attorney fees but refused to do so, attorney could have filed motion for interim fees in order to prevent prejudice to wife but did not do so, and although wife had previously hired and fired five other attorneys, there was no evidence that case was delayed as result. V.T.C.A., Family Code S 6.502(a)(4); Vernon's Ann.Texas Rules Civ.Proc., Rule 10.	Will the serial hiring and firing of attorneys for dilatory purposes be a legitimate concern to be balanced against a requested continuance in order to obtain new counsel in appropriate circumstances?	029962.docx	LEGALEASE-00136247-LEGALEASE-00136248
Ponder v. O'Neal Elec. Co., 214 So. 2d 453	307A+723.1	A motion for continuance which does not comply with statute may be properly overruled. Code 1942, S 1520.	Could a motion for continuance which does not comply with statute be properly overruled?	030276.docx	LEGALEASE-00136640-LEGALEASE-00136641
Crawford v. Saunders, 29 S.W. 102	307A+723.1	It is not enough to allege, in an application for continuance for absence of witness, that "diligence" has been used.	"Is it not enough to allege, in an application for continuance for an absence of witness, that diligence has been used?"	030348.docx	LEGALEASE-00136534-LEGALEASE-00136535
Allen v. Van Horn, 222 Mo. App. 930	307A+720	Amendment of prayer of petition does not entitle defendant to continuance.	Does an amendment of prayer of petition entitle a defendant to continuance?	030377.docx	LEGALEASE-00136694-LEGALEASE-00136695
State v. Tatum, 74 Wash. App. 81	30+3239	Generally, granting or denying of motion for continuance of trial of case, whether criminal or civil, rests within sound discretion of trial court, and will not be disturbed absent showing that trial court in ruling upon motion either failed to exercise its discretion or manifestly abused its discretion.	Does a trial court exercise significant discretion in evaluating motions to continue a trial date?	Pretrial Procedure - Memo # 4109 - C - SHB.docx	LEGALEASE-00026680-LEGALEASE-00026681
Bogert v. Herrick, 37 Misc. 2d 907	307A+91	Matters of examinations before trial are matters of practice and are not jurisdictional in nature.	Are matters of examinations before trial matters of practice and are not jurisdictional in nature?	031186.docx	LEGALEASE-00137026-LEGALEASE-00137027
Aydin Co. Exch. v. Marting Realty, 118 Ohio App. 3d 274	307A+725	It is not necessary that trial court give reasons for refusing a continuance.	Is it necessary for a court to give reasons for refusing a continuance?	Pretrial Procedure - Memo # 4793 - C - NA.docx	ROSS-003287817-ROSS-003287818
Moore v. Mitchell, 30 F.2d 600	371+2001	Character of tax cannot be changed by form of procedure for collection.	Can the character of a tax be changed by form of procedure for collection?	045272.docx	LEGALEASE-00136674-LEGALEASE-00136675
Al-Quraishi v. Nakhla, 728 F. Supp. 2d 702	24+133	Courts of the United States have traditionally been open to nonresident aliens.	Are the courts of the United States open to aliens?	Aliens_Immigration and Citizenship_ Memo 11 - GP.docx	ROSS-003303425-ROSS-003303426
Thomas v. First Nat. Bank of Scranton, 173 Pa. Super. 205	172H+593	A check is merely an order of the depositor on bank to pay stated amount to a named payee from the drawer's account, and, as such, may be revoked at any time before check is paid or accepted for payment by bank, and if payment is made by bank, after such notice, payment is at peril of the bank.	Whether a notice of stop payment order by the drawer is binding on the bank?	010157.docx	LEGALEASE-00137962-LEGALEASE-00137963
United States v. Kidd, 734 F.2d 409	63+1(2)	Private in the United States Army was a "public official" for purposes of federal bribery statute, which defines "public official" to include any government employee. 18 U.S.C.A. S 201.	"Does a ""public official"" include any government employee?"	011811.docx	LEGALEASE-00137725-LEGALEASE-00137726

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Barash, 266 F. Supp. 126	63+1(2)	A payor of a bribe can be charged and convicted with aiding and abetting internal revenue employees in receiving illegal fees for performance of their duties. 18 U.S.C.A. S 201 and (b); 26 U.S.C.A. (I.R.C.1954) S 7214(a) (2).	Can the payor of a bribe be charged with aiding and abetting as well?	011830.docx	LEGALEASE-00137652-LEGALEASE-00137653
United States v. Marmolejo, 89 F.3d 1185	63+1(2)	Cooperative agreement plan (CAP), that provided \$850,000 grant to county for construction of jail, and intergovernmental service agreement (ISA), that provided that county jail would house federal prisoners in exchange for their costs, were so interrelated as to constitute single agreement to provide federal assistance to county jail, for purpose of determining whether, in accepting bribes to allow conjugal visits to federal prisoner incarcerated in county jail, sheriff and deputy violated statute prohibiting bribery of officials of state and local agencies that receive federal funds in one year in excess of \$10,000; IGA established specific conditions of agreement to house federal prisoners that was precondition for receipt of funds under CAP, and funds provided to county were authorized by specific statute and were intended to further public policy goals, even though government received something in return for assistance it provided to county. 18 U.S.C.A. S 666(b).	Does Section 666 of the federal statute prohibiting theft or bribery concerning programs receiving federal funds require direct involvement of federal funds in allegedly corrupt transaction?	011838.docx	LEGALEASE-00137615-LEGALEASE-00137616
State v. Brady, 2 Ariz. App. 210	67+10	As commonly used, "degree" of an offense usually relates to lesser included offenses, but as used in statute defining burglary, quoted word refers merely to time of commission of offense, whether in the daytime or nighttime. A.R.S. SS 13-301, 13-302, subsecs. A, B.	Is daytime burglary a lesser included offense to nighttime burglary?	Burglary - Memo 103 - JS.docx	ROSS-003290554-ROSS-003290556
State v. Butler, 178 Mo. 272	67+14	Establishing that the premises were open to the public was a complete defense to burglary of convenience store, even though the defendant entered area behind counter. West's F.S.A. S 810.02(1).	Is open to the public a defense to burglary?	Burglary - Memo 110 - JS.docx	ROSS-003317166-ROSS-003317167
Collett v. State, 676 So. 2d 1046	67+15	Fact that persons with criminal intent have not been given permission to enter has no effect on whether premises are open to the public and thus within affirmative defense to charge of burglary of structure. West's F.S.A. S 810.02(1).	Is open to the public a defense to burglary?	012625.docx	LEGALEASE-00137958-LEGALEASE-00137959
Magness v. Superior Court, 54 Cal. 4th 270	67+9(2)	The slightest entry by any part of the body or an instrument is sufficient for burglary, but a part of the body or an instrument must penetrate the outer boundary of the building. West's Ann.Cal.Penal Code S 459.	Is entry of any part of the body of an intruder sufficient for burglary?	012695.docx	LEGALEASE-00137425-LEGALEASE-00137427
Martin v. State, 10 Md. App. 274	67+9(1)	If entry is made by opening a closed door, there has been a "breaking" so as to constitute burglary. Code 1940, Tit. 14, S 85.	Does entry through an open door constitute burglary?	012705.docx	LEGALEASE-00137448-LEGALEASE-00137449
Webb v. Wakefield Twp., 239 Mich. 521	200+121	Township has power to raise taxes to maintain highways.	Does the township have power to raise taxes to maintain roads and highways?	019208.docx	LEGALEASE-00137858-LEGALEASE-00137859
Fishman v. Eads, 90 Ind. App. 137	48A+160(1)	Neither foot passengers nor automobiles have priority of right over the other in streets.	Does a foot passenger have priority of right of way over automobiles?	Highways -Memo 79-IS.docx	ROSS-003290600-ROSS-003290601
Smith Cty. v. Thornton, 726 S.W.2d 2	200+76	A county commissioners court has power to close a county road over protests of landowners whose property does not abut that segment of road sought to be closed. Vernon's Ann.Texas Const. Art. 1, S 17; Vernon's Ann.Texas Civ.St. art. 6702-1, S 2.002.	Does commissioners court power extend to closing a road?	Highways-Memo 75-ANM.docx	LEGALEASE-00027205-LEGALEASE-00027206

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Bailey v. Iowa Beef Processors, 213 N.W.2d 642	302+360	Motion to dismiss admits only well pleaded facts; conclusions of law or conclusions of fact are not allowed except where underlying facts are first alleged. 58 I.C.A. Rules of Civil Procedure, rule 111.	Will a motion to dismiss admit only well pleaded facts?	023369.docx	LEGALEASE-00137782- LEGALEASE-00137783
Durston v. Best W. Motel, 695 S.W.2d 795	307A+723.1	Party moving for continuance was not entitled to it merely because motion was not controverted.	Is a party moving for continuance not entitled to it merely because a motion was not controverted?	030555.docx	LEGALEASE-00137798- LEGALEASE-00137799
Humboldt Livestock Auction v. B & H Cattle Co., 261 Iowa 419	307A+725	Under provision of Uniform Rule for Dismissal for Want of Prosecution that where appropriate the order of continuance shall be to date or term certain, continuance must be to a certain date if possible. 58 I.C.A. Rules of Civil Procedure, rule 215.1.	"Should continuance be to a certain date, where the order of continuance is to date or term certain?"	Pretrial Procedure - Memo # 4721 - C - NE.docx	ROSS-003290769-ROSS-003290770
Trina Solar US v. JRC-Servs. LLC, 229 F. Supp. 3d 176	308+101(1)	Under New York law, an agent binds his principal when he enters into a contract within the scope of his authority.	"Can a contract made by an agent, be considered the principals contract?"	042104.docx	LEGALEASE-00137778- LEGALEASE-00137779
Shell Oil Co. v. CO2 Comm., 589 F.3d 1105	25T+151	Binding arbitration section of class settlement did not provide for a prior panel to resolve, after the fact, a dispute regarding the res judicata effect of its prior order on a newly submitted arbitration complaint, but, rather, required a new panel, where the arbitration provisions stated that each time a party filed a new arbitration complaint, the parties should select panel members in the manner prescribed by the panel selection provision.	"Is the res judicata effect of the original panels order, an arbitrable issue?"	Alternative Dispute Resolution - Memo 644 - SB.docx	ROSS-003300482-ROSS-003300483
Furia v. Cerone, 218 A.D.2d 682	228+185.3(16)	Promissory note was enforceable as instrument for payment of money only; notations on back of note did not alter maker's unambiguous obligation to pay, and evidence submitted by maker was insufficient to raise triable issues of fact regarding his defenses of payment and lack of consideration. McKinney's CPLR 3213.	Are promissory notes enforceable for payment of money only?	Bills and Notes - Memo 183 - KC.docx	ROSS-003290808-ROSS-003290809
Gray v. Am. Exp. Co., 34 N.C. App. 714	8.30E+60	Under the Uniform Commercial Code, a negotiable instrument is not incomplete and unenforceable because it is not dated. G.S. S 25-3-115.	Is an undated note or negotiable instrument valid under law?	010126.docx	LEGALEASE-00138854- LEGALEASE-00138855
Maryland Cas. Co. v. Dobbin, 232 Mo. App. 557	8.30E+76	Merely stopping payment on check did not absolve drawer of check from his obligation thereon.	Does a drawer be liable for an obligation on stopping payments on a check?	010137.docx	LEGALEASE-00138806- LEGALEASE-00138807
Di Franco v. Steinbaum, 177 S.W.2d 69	8.30E+76	Merely stopping payment on check which was a negotiable instrument did not absolve drawer from his obligation thereon. Mo.R.S.A. SS 3017, 3200.	Can stopping of payment absolve the drawer from his obligations?	010139.docx	LEGALEASE-00138810- LEGALEASE-00138811
Miller v. Medford Nat. Bank, 115 Or. 366	172H+593	Where check does not operate as an assignment, authority to pay it is revoked on death of drawer.	Does the death of the drawer operate as a revocation of a check?	010163.docx	LEGALEASE-00138227- LEGALEASE-00138228
Thompson v. Bank of Am., N.A., 773 F.3d 741	83E+481	Under Tennessee law, assignment of a note is enforceable regardless of whether it is recorded.	Is an assignment of note enforceable regardless of whether it is recorded?	Bills and Notes -Memo 384 -VP.docx	ROSS-003290845-ROSS-003290846
Roob v. Von Bereghasy, 866 S.W.2d 765	307A+723.1	Trial court has no discretion to reject uncontroverted facts set out by party in a sworn motion for continuance.	Does a trial court lack the discretion to reject the uncontroverted facts established in a party's first motion for continuance?	030601.docx	LEGALEASE-00138262- LEGALEASE-00138263
Capobianco v. United Wire & Supply Corp., 83 R.I. 405	307A+725	On motion for continuance, burden of proof is on moving party.	Is the burden of proof on the moving party on motion for continuance?	030828.docx	LEGALEASE-00138561- LEGALEASE-00138562

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Wallick v. First State Bank of Farmington, 532 S.W.2d 520	307A+720	It is within the sound discretion of trial court to grant or refuse a continuance after permitting an amendment to pleadings during the course of trial, but such discretion is neither an absolute nor arbitrary discretion.	Is it within the sound discretion of trial court to grant or refuse a continuance after permitting an amendment to pleadings during the course of trial?	Pretrial Procedure - Memo # 4385 - C - DHA.docx	LEGALEASE-00028229-LEGALEASE-00028230
Scott v. Missouri Pac. R. Co., 333 Mo. 374	307A+74	Plaintiff introducing deposition in evidence had right to correct deposition from notes of stenographer.	Does a plaintiff have a right to correct the deposition from the notes of the stenographer?	031655.docx	LEGALEASE-00138712-LEGALEASE-00138713
Corn Exch. Bank v. Tri State Livestock Auction Co., 368 N.W.2d 596	307A+36.1	Settlement agreement, if any, between bank and owner of corporate payee, should have been disclosed to opposing counsel and court in action by bank to recover amount of three checks drawn on account of payor.	Should a settlement agreement be disclosed to opposing counsel and a court?	031986.docx	LEGALEASE-00138137-LEGALEASE-00138138
City of Miami v. Quik Cash Jewelry & Pawn, 811 So. 2d 756	371+2005	While only the state legislature has power to authorize the levy of a tax, user fees can validly be imposed by a city or county. West's F.S.A. Const. Art. 7, S 1(a).	Can user fees be validly imposed by a city or county?	032332.docx	LEGALEASE-00138876-LEGALEASE-00138877
Caro v. City of New York, 31 Misc. 2d 834	268+1008	City waived requirement of statute that mailed notice of claim be transmitted by registered mail where it received notice sent by certified mail and failed to object to method of mailing until after time for service personally or by registered mail had expired. General Municipal Law, S 50-e.	"Although the statute directs that depositions shall be transmitted by the officer taking them to the clerk by mail or a special messenger, is it not an objection to a deposition that the officer personally delivered it to the clerk?"	Pretrial Procedure - Memo # 5372 - C - NC.docx	ROSS-003302766-ROSS-003302767
Alan, Sean & Koule v. SV/CORSTA V, 286 F. Supp. 2d 1367	308+151(1)	Under the federal common law of agency, one event that conveys notice of a termination of apparent authority to a third party is the termination of the agent's employment.	Does apparent authority terminate when a third party has notice of termination?	Principal and Agent - Memo 122 - GP.docx	LEGALEASE-00028776-LEGALEASE-00028777
United States v. White, 663 F.3d 1207	63+11	The extent to which the parties conceal their bribes is powerful evidence of their corrupt intent, which is required for a conviction for federal-funds bribery. 18 U.S.C.A. S 666(a)(1)(B).	Does the extent to which the defendants conceal their bribe imply anything in a bribery prosecution?	Bribery - Memo #577 - C - LB.docx	ROSS-003329331-ROSS-003329332
United States v. Leyva, 282 F.3d 623	63+1(1)	Use of an official position was not an element of bribery offense; plain language of statute required only that the public official accept a thing of value in exchange for perpetrating a fraud, and absence of any official act requirement was particularly pointed in light of explicit "official act" or "official duty" language in other subsections of statute. 18 U.S.C.A. S 201(b)(2)(B).	Is the use of an official position an element of the offense under 201(b)(2)(B)?	012468.docx	LEGALEASE-00139185-LEGALEASE-00139186
People v. Henderson, 138 Cal. App. 2d 505	67+29	Burglarious intent may be inferred from the forcible and unlawful entry alone. West's Ann.Pen.Code, S 459.	Can intent to commit burglary be inferred from forcible entry?	Burglary - Memo 195 - KNR.docx	ROSS-003314269-ROSS-003314271
Messmer v. State Farm Cty. Mut. Ins. Co. of Texas, 972 S.W.2d 774	307A+501	Plaintiff's right to nonsuit is absolute and trial judge has no discretion to refuse to grant dismissal.	Is the right to nonsuit absolute?	Pretrial Procedure - Memo # 5500 - C - NC.docx	ROSS-003288851-ROSS-003288852
Lexington Ins. Co. v. Entrex Commc'n Servs., 275 Neb. 702	366+35	A contractual waiver of subrogation is enforceable against gross negligence claims.	Do public policy favor enforcement of waivers of subrogation even in the face of claims of gross negligence?	043210.docx	LEGALEASE-00139344-LEGALEASE-00139345

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
United States v. Harder, 168 F. Supp. 3d 732	110+29(5.5)	Government was required to prove different facts to support charges against defendant for violation of Foreign Corrupt Practices Act (FCPA) and for charge of international money laundering, and charges were thus distinct and did not require merger, even though charges were based on same payments defendant allegedly made to bank official's sister, knowing that those bribes would be given, directly or eventually, to the employee, to induce him to violate the law; government was required to prove that defendant offered or paid anything of value to a foreign official for corrupt purposes to support FCPA charge, and was required to prove that defendant transferred funds abroad from the United States with intent to promote unlawful activity, i.e., intent to promote an FCPA violation, to support money laundering charge, and the government was thus required to prove different facts to make out the violations charged. 15 U.S.C.A. S 78dd-2(a)(1), (3); 18 U.S.C.A. S 1956(a)(2)(A).	Do courts doubt on the Congresss intention to hold an individual liable under 15 U.S.C. 78dd1(a)(3)(A) if he took great care to know exactly whom his agent would be bribing and what precise steps that official would be taking?	011121.docx	LEGALEASE-00139606- LEGALEASE-00139607
Phillips v. Nash, 47 Ga. 218	289+474	But a dormant partner is not liable to those dealing with the firm after his withdrawal, even though he give no notice of his withdrawal, except to those who know of his connection with the firm. To such as had such knowledge he is liable, even for contracts made after his withdrawal, unless they have notice of his withdrawal.	Does a dormant or a silent partner have liabilities to everyone dealing with the partnership?	022321.docx	LEGALEASE-00139581- LEGALEASE-00139582
Deford v. Reynolds, 36 Pa. 325	289+474	It seems that every partner is considered as dormant unless his name is mentioned in the title of the firm or included in some general term, e.g., "& Co.," "Sons," etc.	Will a partner be a dormant one if his name does not appear in the firm?	022323.docx	LEGALEASE-00139587- LEGALEASE-00139588
Babcock v. Stewart, 58 Pa. 179	289+828	An incoming partner is not liable for the prior contracts of the firm, not entered into on his credit.	Is an incoming partner liable on the contracts entered into by the firm before he became a member?	Partnership - Memo 376 - SB.docx	ROSS-003301945-ROSS- 003301946
In re Monetary Group, 2 F.3d 1098	289+560	Partners are liable to each other for fruits of misappropriated partnership property.	Are partners liable to each other for the fruits of misappropriated partnership property?	022348.docx	LEGALEASE-00139410- LEGALEASE-00139411
Guthrie v. Buckeye Cannel Coal Co., 66 Ind. 543	307A+74	Though 2 Rev.St.1876, p. 141, S 256, provides that the deposition shall be subscribed by the deponent after being carefully read to or by him, it is not necessary that the certificate show that such section was complied with.	Shall the deposition be subscribed by the deponent after being carefully read to or by him?	Pretrial Procedure - Memo # 5272 - C - SK.docx	ROSS-003291298-ROSS- 003291299
Twp. of Holmdel v. New Jersey Highway Auth., 190 N.J. 74	371+2005	A too expansive interpretation of governmental tax immunity must be guarded against.	Should a too expansive interpretation of governmental tax immunity be guarded against?	045343.docx	LEGALEASE-00139465- LEGALEASE-00139466
Petrick v. United States, 12 Cl. Ct. 700	34+9	Resignation of military officer is involuntary only when brought about by government action, and subjective feelings of duress on the part of officer, absent government action, or fact that officer is faced with inherently unpleasant alternatives do not make his or her choice involuntary.	Is a resignation by a military officer involuntary when brought about by government action?	008556.docx	LEGALEASE-00140032- LEGALEASE-00140033
Leahy v. McManus, 237 Md. 450	83E+423	In absence of express negation of personal liability, endorser is liable to holder for value. Code 1957, art. 13, SS 52, 65, 87; art. 95B, SS 3-402, 3-403.	Can an indorsement be written anywhere on the instrument?	Bills and Notes - Memo 136 - IS.docx	ROSS-003301511-ROSS- 003301512

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Farmers' Sav. Bank v. Neel, 193 Iowa 685	8.30E+04	The state Legislature has power to declare what instruments shall be negotiable and what shall not, and has done so by the enactment of the Negotiable Instruments Act (Code Supp. 1913, SS 3060a1, 3060a55, and 3060a56).	Does the State have power to determine what instruments are negotiable?	Bills and Notes - Memo 567 - RK.docx	ROSS-003301531-ROSS-003301532
Russell v. Klink, 53 Mich. 161	83E+423	The payee of a note, by indorsing thereon a guaranty of collection to a third person, transfers the title.	Whether a guaranty of collection indorsed by the payee passes title?	Bills and Notes- Memo 353-IS.docx	ROSS-003300622-ROSS-003300623
FFP Mktg. Co. v. Long Lane Master Tr. IV, 169 S.W.3d 402	83E+402	Negotiation or assignment can change ownership of a promissory note.	Can negotiation or assignment change ownership of a promissory note?	Bills and Notes- Memo 361-IS.docx	ROSS-003301553-ROSS-003301554
Phoenix Assur. Co. v. Davis, 126 N.J. Super. 379	83E+481	Any negotiable instrument payable to payees jointly and not in the alternative may be assigned but not negotiated without endorsement of all payees.	Is endorsement of all payees necessary?	Bills and Notes -Memo 420 -DB.docx	ROSS-003300634-ROSS-003300635
Joint Highway Dist. No. 13 v. Hinman, 220 Cal. 578	200+121	Highway construction is "public purpose" for which property may be taxed by state.	Is highway construction a public purpose?	019002.docx	LEGALEASE-00140333-LEGALEASE-00140335
In re Opinion of the Justices, 133 Me. 525	296+1	By direct provision of Const. pt. 1, art. 36, pensions are not to be granted, except in consideration of actual services, and never for more than one year at a time; a "pension" ordinarily suggesting the idea of a bounty or reward for services rendered.	What is the consideration for a pension?	022759.docx	LEGALEASE-00140486-LEGALEASE-00140487
Goodman v. McMillan, 258 Ala. 125	134+1355	A "widow" is a wife who outlives her husband, and not an ex-wife who has been divorced from husband before his death.	Is the divorced wife of a confederate soldier entitled to pension as a husband's widow after his death?	Pension - Memo 37 - SB.docx	LEGALEASE-00029910-LEGALEASE-00029911
Bundren v. Holly Oaks Townhomes Ass'n, 347 S.W.3d 421	302+16	Texas follows a "fair notice" standard for pleading, which looks to whether the opposing party can ascertain from the pleading the nature and basic issues of the controversy and what testimony will be relevant. Vernon's Ann.Texas Rules Civ.Proc., Rule 47(a).	Does the fair notice pleading standard serve to give the opposing party information to prepare a defense?	023434.docx	LEGALEASE-00140340-LEGALEASE-00140341
Blanchard v. Blanchard, 261 Ga. 11	309+185	A payment by a surety on the principal's account is presumed to be made at the principal's request.	"Will a payment by a surety or guarantor for the account of a principal presumed to be at the request of the latter, raise an implied promise of reimbursement?"	043549.docx	LEGALEASE-00139975-LEGALEASE-00139976
Lexington Ins. Co. v. Entrex Commc'n Servs., 275 Neb. 702	366+35	A contractual waiver of subrogation is enforceable against gross negligence claims.	Can a waiver of subrogation be enforced against a gross negligence claim?	Subrogation - Memo # 1266 - C - SJ.docx	ROSS-003288753-ROSS-003288754
United States v. Jennings, 160 F.3d 1006	63+1(1)	"Corrupt intent," with which payment must be made in order for payment to be a bribe for purposes of statute prohibiting bribery of public officials and witnesses, is the intent to receive a specific benefit in return for the payment. 18 U.S.C.A. S 201(b)(1)(A).	"How is ""corrupt intent"" defined for the purposes of a bribery conviction?"	012127.docx	LEGALEASE-00142017-LEGALEASE-00142018
Salinas v. United States, 522 U.S. 52	63+1(1)	Bribe need not affect federal funds before bribe violates federal bribery statute. 18 U.S.C.A. S 666(a)(1)(B).	Does a bribe need to affect federal funds before it can be considered a violation of the federal bribery statute?	Bribery - Memo #762 - C - LB.docx	ROSS-003288902-ROSS-003288903
Brown v. Am. Steel Foundries, 272 Pa. 231	113+3	A custom to be good should be certain, continued, reasonable, distinct, uncontradicted, and so notorious as to be probably known to the parties.	What are the requirements of a valid custom?	014158.docx	LEGALEASE-00141750-LEGALEASE-00141751
Ludman v. Davenport Assumption High Sch., 895 N.W.2d 902	157+516	A witness who is qualified by knowledge and experience can testify to a custom or usage's existence in a particular trade or business, and the testimony does not have to call for the opinion of the witness as an expert; instead, the record must establish the custom as a matter of fact, not as a matter of opinion.	Do customs exist only as a matter of fact?	014184.docx	LEGALEASE-00141856-LEGALEASE-00141857

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Pennell v. Delta Transp. Co., 94 Mich. 247	113+3	Custom cannot change a definite contract, and no custom is binding which is not certain, definite, uniform, and notorious.	Can custom change a definite contract?	Customs & Usage - Memo 165 - RK.docx	ROSS-003288304-ROSS-003288305
Reich v. Lopez, 858 F.3d 55	135+2	Owning property in forum does not alone establish domicile; one may have more than one residence in different parts of country or world, but person may have only one domicile.	Can a person have only one domicile?	014476.docx	LEGALEASE-00141085-LEGALEASE-00141086
Gauthier v. Benson, 667 So. 2d 1181	135+2	"Residence" is not a specific legal term, is nebulous and has no precise meaning; person's "residence" is his dwelling place, however, temporary, and regardless of whether he intends it to be his permanent home.	What is a residence?	014538.docx	LEGALEASE-00141819-LEGALEASE-00141820
San Diego Cty. v. California Water & Tel. Co., 30 Cal. 2d 817	200+77(1)	A method provided by legislature for abandonment or vacation of highways by county or city is exclusive. Streets and Highways Code, SS 954-960.4.	Is the method to abandon or vacate roads exclusive?	Highway-Memo 165-ANM.docx	ROSS-003288829-ROSS-003288830
Mississippi State Highway Comm'n v. McClure, 536 So. 2d 895	200+80	State Highway Commission could not convey fee simple title to portion of road easement which was no longer needed, but could only abandon it.	Do statutes authorize the commission to acquire fee simple title to lands?	019035.docx	LEGALEASE-00141000-LEGALEASE-00141001
Bob Marshall All. v. Hodel, 852 F.2d 1223	260+5.1(3)	Decision by federal agencies not to issue oil and gas leases in designated wilderness of national forest would not be equivalent to formal "withdrawal" of wilderness from mineral leasing under Federal Land Policy and Management Act, but would constitute legitimate exercise of discretion granted to Interior Secretary under Mineral Leasing Act. Federal Land Policy and Management Act of 1976, S 204, 43 U.S.C.A. S 1714; Mineral Lands Leasing Act, SS 1 et seq., 17(a), 30 U.S.C.A. SS 181 et seq., 226(a).	Does the Mineral Leasing Act allow the Secretary to lease such lands but does not require him to do so?	Mines and Minerals - Memo # 93- C - EB.docx	ROSS-003288881-ROSS-003288882
Beggs v. Brooker, 79 S.W.2d 642	289+715	Right of application of partnership assets to partnership debts is right which partners themselves have.	Do the partners have the right of application of partnership assets to partnership debts?	022403.docx	LEGALEASE-00141918-LEGALEASE-00141919
Farrell v. Theriault, 464 A.2d 188	307A+723.1	Motion for continuance should be filed promptly after need for continuance arises. Rules Civ.Proc., Rule 40(b).	Should a motion for continuance be filed promptly after the need for continuance arises?	030737.docx	LEGALEASE-00141507-LEGALEASE-00141508
Carlyle v. Plumer, 11 Wis. 96	307A+74	Where a deposition is taken under a commission, as well as when taken under the statute, a witness may write in his answers himself.	"Where a deposition is taken under a commission, as well as when taken under the statute, can a witness write in his answers himself?"	032554.docx	LEGALEASE-00141710-LEGALEASE-00141711
Hammond v. Freeman, 9 Ark. 62	307A+74	The certificate of an officer before whom a deposition is taken, must show that it was reduced to writing in his presence, otherwise it cannot be read.	Will it be defective if there is no showing that the examination of the witness was reduced to writing in the presence of the justice?	Pretrial Procedure - Memo # 5726 - C - DHA.docx	ROSS-003303122-ROSS-003303123
J.H. Rottman Distilling Co. v. Van Frank, 88 Mo. App. 50	307A+715	An application by plaintiff showed that he was at the time of the trial away on a visit to one of his children, but that he intended to be present and make a defense, and that when notified by his attorney, pursuant to agreement with him, of the day for which the cause was set down for trial, he was ill, threatened with pneumonia, and that, being an aged man, past 70 it would have been extremely dangerous for him to undertake the trip. Besides this, it appeared that his testimony was important, and the refusal of the continuance practically prevented him from making any defense. Held, that it was reversible error to overrule the application under the circumstances.	Can an application for continuance be refused when materiality of the evidence on the trial of the cause and proper diligence is shown?	Pretrial Procedure - Memo # 6097 - C - DHA.docx	ROSS-003304839-ROSS-003304840

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Moore v. Mitchell, 30 F.2d 600	371+2001	Enforcement of revenue laws rests on force and authority, not on consent.	Do enforcement of revenue laws rest on consent?	045155.docx	LEGALEASE-00140901-LEGALEASE-00140902
Radiofone v. City of New Orleans, 630 So. 2d 694	371+2005	Power of state to tax is unlimited except as restricted by constitutional provisions.	Is the power of state to tax unlimited?	Taxation - Memo # 531 - C - DHA.docx	ROSS-003290187-ROSS-003290188
W.S. Butterfield Theatres v. Dep't of Revenue, 353 Mich. 345	371+2005	Power of taxation is fundamental to very existence of government of the state.	Is the power of taxation fundamental to the existence of government of the state?	Taxation - Memo # 596 - C - NS.docx	ROSS-003329329-ROSS-003329330
Propark Am. New York v. City of Hoboken, 27 N.J. Tax 565	268+956(1)	The power to tax reposes in the State; municipalities have no inherent power to tax and can do so only pursuant to a delegation of the State's power.	Do municipalities have inherent power to tax?	Taxation - Memo # 607 - C - SHS.docx	ROSS-003290216-ROSS-003290217
Wheeling Steel Corp. v. Glander, 337 U.S. 562	371+2182	Under Ohio law, tax on intangibles such as notes and accounts receivable is not a franchise, privilege, occupation, or income tax, but is an ad valorem property tax. Gen.Code Ohio, SS 5325-1, 5327, 5328-1, 5328-2, 5638.	"Is a tax on intangibles an ""ad valorem tax""?"	Taxation - Memo # 681 - C - SS.docx	ROSS-003290090-ROSS-003290092
Gustafson v. Riggs, 10 Ariz. App. 74	371+2001	Taxes fall naturally into three classifications: (1) capitation or poll taxes, (2) taxes on property, (3) excises.	What are three classifications of taxes?	Taxation - Memo # 699 - C - CK.docx	ROSS-003291518-ROSS-003291519
Falls Rubber Co. of Akron v. Applebaum, 286 Mass. 18	269+10	One doing business under trade-name may be liable on paper executed by him in that name. G.L.(Ter.Ed.) c. 107, S 40.	Can one who does business under a trade name be liable upon paper executed by him in that name?	Bills and Notes - Memo 411 - RK.docx	LEGALEASE-00031973-LEGALEASE-00031974
United States v. Madeoy, 912 F.2d 1486	63+1(2)	Veterans Administration fee appraisers are "public officials" under bribery statute; fee appraisers have official federal responsibility and occupy position of public trust. 18 U.S.C.A. S 201(a)(1).	Can a Veterans Administration fee appraiser be considered public officials under bribery statute?	012183.docx	LEGALEASE-00142439-LEGALEASE-00142440
Murray v. Albert Lea Home Inv. C.o., 202 Minn. 62	113+7	A custom, no matter how well established, will not be recognized if it is contrary to common sense.	Will a custom be recognized if it is contrary to common sense?	014241.docx	LEGALEASE-00143051-LEGALEASE-00143052
Walker v. United States, 142 N.M. 45	113+8	Customary practice is irrelevant when inconsistent with New Mexico law.	Is a customary practice irrelevant when inconsistent with law?	014248.docx	LEGALEASE-00142935-LEGALEASE-00142936
PLM v. Consol. Rail Corp., 490 F. Supp. 194	113+8	Under Pennsylvania law, custom which conflicts with a statute or rule of law is void.	"If a custom conflicts with a statue or rule of law, then is it void?"	Customs & Usage - Memo 280 - TB.docx	ROSS-003289020-ROSS-003289021
Devon Energy Corp. v. Kempthorne, 551 F.3d 1030	260+5.1(8)	Department of Interior's (DOI) interpretation of its marketable condition rule to include in gross proceeds, for royalty purposes, costs of compression and dehydration incurred after coalbed methane gas from federal oil and gas mineral leases left central delivery points (CDP) to allow it to move through pipelines that served market in which gas was typically sold was reasonable interpretation of Mineral Leasing Act (MLA) provision requiring royalties to be based on value of product sold "from the lease." Mineral Leasing Act, S 17(b)(1)(A), 30 U.S.C.A. S 226(b)(1)(A); 30 C.F.R. S 206.151.	Do royalty regulations specify that the value of production should be no less than the gross proceeds accruing to the lessee for lease production?	Mines and Minerals - Memo #140 - C - EB.docx	ROSS-003288405-ROSS-003288406

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
Piney Woods Country Life Sch. v. Shell Oil Co., 726 F.2d 225	260+79.3	Purpose of distinction, in royalty clauses, between gas sold at well and gas sold off the lease is to distinguish between gas sold in form in which it emerges from the well, and gas to which value is added by transportation away from the well or by processing after the gas is produced, and thus "at the well" describes not only location but quality as well, and market value at well means market value before processing and transportation, and gas is sold at the well if price paid is consideration for gas as produced but not for processing and transportation. Natural Gas Act, SS 1-607, as amended, 15 U.S.C.A. SS 717-717z; Energy Policy and Conservation Act, S 529, 42 U.S.C.A. S 6399.	"Does ""at the well"" mean that the gas has or has not been increased in value by processing or transportation?"	021330.docx	LEGALEASE-00142654- LEGALEASE-00142655
Alford v. Chevron U.S.A. Inc., 13 F. Supp. 3d 581	260+73.1(6)	Under Louisiana law, owners and users of real property failed to allege that successor in interest to operators of oil and gas facilities negligently performed its contractual obligations as lessee to the property, as required to state negligence claim against operator based upon its alleged failure to restore leased property to its original condition; complaint alleged that successor in interest failed to perform its obligation to restore the property under civil and mineral codes, not that it actually operated on the property or otherwise performed any obligations at all. LSA-C.C. art. 2315.	Is the lessee responsible for damages which are inflicted without negligence upon the lessor's property in the course of necessary drilling operations?	Mines and Minerals - Memo #170 - C - CSS.docx	LEGALEASE-00032242- LEGALEASE-00032243
Kaiser-Francis Oil Co. v. Producer's Gas Co., 870 F.2d 563	260+83	Under Oklahoma law, purchaser of natural gas could not avoid its obligations under take-or-pay contract with seller by purchasing gas at lower than contract price from co-owners of seller's well thereby forcing seller to rely on traditional gas balancing remedies between co-owners of jointly owned wells for payment; given contracts, which entitled seller to payment from buyer within specific time, seller was not required to resort to balancing which would have altered price paid, time payment was made, and likelihood that payment would ever be made.	"In the context of industry practice, is the take-or-pay payment intended to be a payment for gas or is it part of the price of gas until it is applied at the time of the sale?"	021396.docx	LEGALEASE-00143462- LEGALEASE-00143463
Claybrooke v. Barnes, 180 Ark. 678	260+49	Evidence that owner of surface estate had worked surface mines held insufficient to show title by adverse possession to severed mineral estate.	"Where there has been a severance of the legal interest in the minerals from the ownership of the land, is adverse possession of the surface also adverse possession of the mineral estate?"	021405.docx	LEGALEASE-00143516- LEGALEASE-00143517
Waller Bros. v. Exxon Corp., 836 F. Supp. 363	219+31	Under general equitable considerations, 6% interest rate would be paid to nonconsenting owner of leasehold interest in gas unit subject to forced integration by oil company on sum represented by check mailed by owner to oil company and held by oil company for 90 days, after court determined that acceptance of check by oil company did not constitute "accord and satisfaction" whereby oil company waived right to charge and collect alternate charges from owner, considering federal interest rate, state interest rate, and interest rate on passbooks and checking accounts as well as treasury bills.	Does the state have the constitutional power to regulate production of oil and gas so as to prevent waste?	021631.docx	LEGALEASE-00142124- LEGALEASE-00142125
Flournoy v. First Nat. Bank, 78 Ga. 222	307A+74	Though the place of execution must appear, it is sufficient to give the county and state; and, if these can be ascertained from the return with due certainty by reasonable construction, it will suffice.	"Though the place of execution of interrogatories must appear, is it sufficient to give the county and state?"	Pretrial Procedure - Memo # 5418 - C - SK.docx	ROSS-003328404-ROSS- 003328405

Judicial Opinion	WKNS Topic + Key Number	Copied Headnote	Memo Question	Memo Filename	Bates Number
McCleary v. Sankey, 1842 WL 4793	307A+74	The certificate of a justice taking a deposition must show that it was taken at the time and place mentioned in the notice, or the deposition is not evidence.	Should the deposition taken in pursuance of a rule of court be read in evidence?	033086.docx	LEGALEASE-00142553-LEGALEASE-00142554
Dev. Corp. of Palm Beach v. WBC Const., 925 So. 2d 1156	307A+554	When a defendant challenges jurisdiction, the defendant files a motion to dismiss.	"When a defendant challenges jurisdiction, does the defendant file a motion to dismiss?"	033429.docx	LEGALEASE-00142782-LEGALEASE-00142783
Semenza v. Kniss, 2005 MT 268, 17, 329 Mont. 115	31+9(2)	Special appearance is not required to contest personal jurisdiction; party may challenge a court's personal jurisdiction simply by raising the issue in its initial response to a claim. Rules Civ.Proc., Rule 12.	Does the rule permitting motion to dismiss for lack of personal jurisdiction (Rule 12 M.R.Civ.P.) effectively abolish the distinction between general and special appearances?	033439.docx	LEGALEASE-00143538-LEGALEASE-00143539
Bologna v. Schlanger, 995 So. 2d 526	307A+563	Dismissal for fraud is warranted where it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability to impartially adjudicate a matter by improperly influencing the trier of fact or unfairly hampering the presentation of the opposing party's claim or defense.	Is the dismissal of a lawsuit for fraud on the court an extraordinary remedy to be utilized only when a deliberate scheme to subvert the judicial process has been clearly and convincingly proved?	034526.docx	LEGALEASE-00143482-LEGALEASE-00143483
Chickasaw Nation v. State of Okl. ex rel. Oklahoma Tax Comm'n, 31 F.3d 964	371+2005	State's power to regulate does not automatically encompass power to tax in all circumstances; where taxation is integral part of overall regulatory structure in traditionally heavily regulated area, as opposed to simple revenue measure, tax may properly be considered to be regulatory and to fall within regulatory authority.	Does the state's power to regulate encompass power to tax in all circumstances?	Taxation - Memo # 486 - C - KBM.docx	ROSS-003302253-ROSS-003302254
Oswald v. Hamer, 73 N.E.3d 536	371+2013	The legislature's power to tax is plenary; it is restricted only by the federal and state constitutions.	Is the power of state to tax plenary?	045333.docx	LEGALEASE-00142419-LEGALEASE-00142420
Rosenbalm v. Dep't of Treasury, 164 Mich. App. 99	371+3402	Intangibles tax did not in substance constitute "income tax"; intangibles tax is specific tax on privilege of ownership of intangible personal property such as corporate shares, and not tax on income from shares. M.C.L.A. SS 205.131 et seq., 206.1 et seq.; M.C.L.A. Const. Art. 9, S 7.	Is the intangible tax a property tax and not an income tax?	045673.docx	LEGALEASE-00143069-LEGALEASE-00143070
Bluebeard's Castle v. Gov't of Virgin Islands, 321 F.3d 394	371+2060	Property taxes are generally governed by state law.	Are property taxes generally governed by state law?	045714.docx	LEGALEASE-00142197-LEGALEASE-00142198
Gilreath v. Westgate Daytona, Ltd., 871 So. 2d 961	371+2060	An "ad valorem tax" is a tax assessed upon the value of property.	"Is an ""ad valorem tax"" a tax assessed upon the value of property?"	Taxation - Memo # 747 - C - SHB.docx	ROSS-003289817
Performance Unlimited v. Questar Publishers, 52 F.3d 1373	25T+186	In a dispute subject to mandatory arbitration under the Federal Arbitration Act, district court has subject matter jurisdiction under provision governing stays pending arbitration to grant preliminary injunctive relief, provided that party seeking relief satisfies four criteria which are prerequisites to grant of such relief. 9 U.S.C.A. S 3.	Does the Arbitration Act strip the authority of the court to grant a writ of possession pending outcome of the arbitration?	Alternative Dispute Resolution - Memo 681 - RK.docx	ROSS-003290733-ROSS-003290735
Second Congregation Soc. v. Hugh Stubbins & Assocs., 108 N.H. 446	25T+181	Although delay in moving for arbitration will not alone amount to default of that procedure under statute, any attempt to go to merits and to still retain right to arbitrate is clearly impermissible. RSA 542:2.	Does delay in moving for arbitration constitute a default?	007692.docx	LEGALEASE-00144805-LEGALEASE-00144806

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St. Mary's Med. Ctr. of Evansville v. Disco Aluminum Prod. Co., 969 F.2d 585	25T+182(1)	Waiver of right to arbitrate may be found even if decision to forego arbitration did not prejudice nondefaulting party. 9 U.S.C.A. S 2.	Can courts find waiver if it is clear that a party has forgone its right to arbitrate?	Alternative Dispute Resolution - Memo 695 - RK.docx	ROSS-003302126-ROSS-003302128
Ivax Corp. v. B. Braun of Am., 286 F.3d 1309	25T+182(1)	Participating in litigation is not the only way to waive the right to arbitration.	Is participating in litigation the only way to waive the right to arbitration?	007716.docx	LEGALEASE-00144831-LEGALEASE-00144832
Midwest Window Sys. v. Amcor Indus., 630 F.2d 535	25T+182(1)	Whether a right to arbitration has been waived cannot be determined by application of an inflexible rule; all of the circumstances, of which prejudice should be one, must be considered in the context of the particular case.	Can waiver of the right to arbitration be determined by the application of some inflexible rule?	007747.docx	LEGALEASE-00145033-LEGALEASE-00145034
United States v. Lederer, 365 F. Supp. 1003	34+20.8(1)	Draft board is under duty to supply registrants with requested form for conscientious objector classification.	Is supplying registrants with requested forms a mandatory duty of the board?	008672.docx	LEGALEASE-00144654-LEGALEASE-00144655
Young v. Terminal R. R. Ass'n of St. Louis, 70 F. Supp. 106	34+20.2	Selective service regulations authorized by statute have the force of law. Selective Training and Service Act of 1940, S 10(a)(1), 50 U.S.C.A.App. S 310(a)(1).	Do selective service regulations have the force of law?	008687.docx	LEGALEASE-00144670-LEGALEASE-00144671
Ex parte Stewart, 47 F. Supp. 415	34+20.8(1)	The opinions of the Director of the Selective Service are merely the director's opinions directed to the various boards to guide them in solving certain problems and do not have the force of "law". Selective Training and Service Act of 1940, S 1 et seq., 50 U.S.C.A.Appendix S 300 et seq.	Do the opinions of the Director of Selective Service have the force of law?	Armed Services - Memo 273 - RK.docx	ROSS-003301504
United States v. Capo, 817 F.2d 947	63+1(1)	Commercial bribery is not within the reach of the Hobbs Act, which prohibits extortion. 18 U.S.C.A. S 1951.	Is commercial bribery within the reach of the Hobbs Act?	Bribery - Memo #848 - C - LB.docx	ROSS-003288223-ROSS-003288224
Sherrill-Russell Lumber Co. v. Krug Lumber Co., 216 Mo. App. 1	113+7	Contract, made in view of well-established customs of trade to which it relates, is to be construed in light of customs, but, to become part of contract, customs must be reasonable.	Should a contract be construed in light of customs?	014243.docx	LEGALEASE-00143617-LEGALEASE-00143618
St. James v. Embury-Martin Lumber Co., 219 Mich. 115	113+7	That a custom is general and established raises a presumption of its reasonableness.	Does a custom that is general and established raise a presumption of reasonableness?	014244.docx	LEGALEASE-00143613-LEGALEASE-00143614
Heckman v. Williamson Cty., 369 S.W.3d 137	106+247(7)	Though ordinarily lacking jurisdiction over an appeal from an interlocutory order, the Supreme Court had appellate jurisdiction, because on a conflict with its prior decisions, over decision of Court of Appeals that held on an interlocutory appeal that because no named plaintiff in putative class action had standing on all of class's claims, no named plaintiff had standing at all; Supreme Court had previously held that a named plaintiff's lack of standing to bring some, but not all, of his claims just deprived trial court of jurisdiction over those discrete claims. V.T.C.A., Government Code S 22.225(b).	Does a court have no jurisdiction over a claim made by a plaintiff who lacks standing to assert it?	033218.docx	LEGALEASE-00144914-LEGALEASE-00144915
Henneberry v. Borstein, 91 A.D.3d 493	307A+560	Defendant challenging service must move to dismiss on that ground. McKinney's CPLR 306-b.	Should a defendant challenging service move to dismiss on that ground?	Pretrial Procedure - Memo # 6183 - C - SN.docx	ROSS-003302573

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Beverage v. Pullman & Comley, 232 Ariz. 414	30+3904	When the superior court dismisses for lack of personal jurisdiction without conducting an evidentiary hearing, the appellate court views the facts in the light most favorable to the plaintiffs but accepts as true the uncontradicted facts put forward by the defendants.	"To survive a motion to dismiss for lack of personal jurisdiction over a nonresident defendant, does the burden shift to the defendant to rebut the showing?"	Pretrial Procedure - Memo # 6215 - C - KG.docx	LEGALEASE-00034118-LEGALEASE-00034119
Mistich v. Com., Pa. Bd. of Prob. & Parole, 863 A.2d 116	307A+552	Generally, a case will be dismissed as moot if there exists no actual case or controversy.	Will a case be moot and be dismissed when the controversy that existed between litigants has ceased to exist?	Pretrial Procedure - Memo # 6709 - C - SK.docx	ROSS-003289332-ROSS-003289333
Wells Fargo Bank, N.A. v. Reeves, 92 So. 3d 249	266+1785(2)	Issue of mortgagee's compliance or lack thereof with statute that required mortgagee to give satisfactory security of 25% of the market value of its outstanding capital stock was not properly before the trial court at the pre-answer stage of the litigation; it was a possible affirmative defense or counterclaim which would be determined upon averments of fact in a responsive pleading and sufficient proof of those facts. West's F.S.A. S 660.27.	Is fraud upon the court an egregious offense against the integrity of the judicial system and is more than a simple assertion of facts in a pleading which might later fail for lack of proof?	034649.docx	LEGALEASE-00144975-LEGALEASE-00144976
Scallan v. Marriott Intl, 995 So. 2d 1066	307A+46	Although a trial court has discretion to dismiss a complaint for noncompliance with a court's discovery order, it is for the very reason that the trial judge is granted so much discretion to impose this severe sanction that it has been determined that an order for dismissal should contain an explicit finding of willful noncompliance.	Does a trial court possess the discretion to dismiss a complaint when there is clear and convincing evidence that the plaintiff has committed fraud upon the court?	Pretrial Procedure - Memo # 7352 - C - UG.docx	LEGALEASE-00034657-LEGALEASE-00034658
Bd. of Cty. Comm'rs of Eagle Cty. v. Dist. Court In & For the City & Cty. of Denver, 632 P.2d 1017	401+2	It is the substance of the action and not the form which controls the venue of case.	Is it the substance of the action or the form of the action which controls the venue of the case?	Venue - Memo 131 - RK.docx	ROSS-003305001-ROSS-003305002
Williams v. E. Coal Corp., 952 S.W.2d 696	413+2084	Workers' compensation is creature of statute, and remedies and procedures described therein are exclusive. KRS 342.011 et seq.	What is workers compensation a creature of?	048215.docx	LEGALEASE-00144299-LEGALEASE-00144300
United States v. Bahel, 662 F.3d 610	63+1(1)	A showing of "quid pro quo" contemporaneous with the bribe, that is, a specific act to be completed at the time of the promise to compensate the actor, is limited to bribery, and therefore, has no application in the honest services fraud context. 18 U.S.C.A. SS 201, 1341, 1343, 1346.	Can bribery be accomplished through an ongoing course of conduct without specific quid pro quo being proved?	012307.docx	LEGALEASE-00145647-LEGALEASE-00145648
United States v. Ramirez, 708 F.3d 295	350H+1263	Generic definition of "dwelling," for the purposes of the enumerated "burglary of a dwelling" offense under the career offender Sentencing Guideline, is an enclosed space for use or intended use for human habitation. U.S.S.G. SS 4B1.1(a), 4B1.2(a), 18 U.S.C.A.	Does a burglary of a dwelling require the dwelling to be an enclosed space?	Burglary - Memo 234 - TB.docx	ROSS-003315751-ROSS-003315752
State v. Cantu, 123 Wash. App. 404	67+4	A locked room can be a "dwelling" for the purpose of residential burglary. West's RCWA 9A.52.025(1).	May a locked room be considered a dwelling for the purpose of residential burglary?	Burglary - Memo 240 - TB.docx	ROSS-003317994-ROSS-003317995

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United States v. Burnett, 750 F. Supp. 1029	260+7	Purchaser of an interest in an unpatented mining claim was required to remove structures and personal property located on claim which he had purchased from a previous holder; operating plan submitted by purchaser was rejected by Forest Service, and thus the purchaser did not have the required approval from the Service, and thus the structures and personal property were a trespass on government property in light of evidence that purchaser had acquired only right to remove structures and did not have right to list them on claims.	"Can a person maintain property on a mining claim on land without first having a special use authorization, contract, or approved operating plan permitting such use?"	021428.docx	LEGALEASE-00145930- LEGALEASE-00145931
Kadrmas v. Sauvageau, 188 N.W.2d 753	260+55(5)	Warranty deed which described land conveyed, and excepted and reserved one-half of minerals to grantors, conveyed surface and one-half of the minerals.	"Does a general conveyance of land, without any exception or reservation of the minerals, carry with it the minerals as well as the surface?"	021436.docx	LEGALEASE-00145989- LEGALEASE-00145990
Dayton v. Bartlett, 38 Ohio St. 357	289+870	Where a surviving partner, engaged in winding up the partnership affairs, dies, his administrator is charged with completing the duty, and is entitled to compensation for such service, to be paid from the partnership assets which came to his hands from such surviving partner.	Is it the duty of all the partners to settle the partnerships affairs?	Partnership - Memo 454 - RK.docx	ROSS-003291149-ROSS- 003291150
Yandes v. Lefavour, 2 Blackf. 371	241+143(3)	An acknowledgement or promise by one partner, after the dissolution of the firm, does not bind the other partners, so as to take the debt out of the statute of limitations as to them.	Will one partners acknowledgment of a debt of the firm after dissolution bind the other partners?	022484.docx	LEGALEASE-00146394- LEGALEASE-00146395
Gray v. City of Salem, 271 Mass. 495	296+2	Legislature has power to grant pensions to selected individuals, except where no legitimate public good will be derived therefrom.	Does the legislature have constitutional power to grant pensions to selected individuals?	022822.docx	LEGALEASE-00145310- LEGALEASE-00145311
WorldPeace v. Comm'n for Lawyer Discipline, 183 S.W.3d 451	302+34(3)	Pleadings should generally be construed as favorably as possible to the pleader.	Are pleadings generally construed as favorably as possible to the pleader?	Pleading - Memo 440 - RMM.docx	ROSS-003289274-ROSS- 003289275
Texas Dept of Transp. v. Garcia, 243 S.W.3d 759	307A+554	A court's lack of jurisdiction requires dismissal of a case.	Does a court lack of jurisdiction require dismissal of a case?	033169.docx	LEGALEASE-00145547- LEGALEASE-00145548
Blanke v. Hendrickson, 944 S.W.2d 943	184+13(1)	For purposes of fraud claim, truth or falsity of representation is determined as of time it was made and as of time it was intended to be relied and acted upon.	Is the truth or falsity of the representation determined as of the time it was made and as of the time it was intended to be relied and acted upon?	Pretrial Procedure - Memo # 6496 - C - PC.docx	LEGALEASE-00035359- LEGALEASE-00035360
Cal v. Forward Air Sols., 199 So. 3d 312	30+3330	Trial court's entry of an order dismissing a complaint as a discovery sanction is reviewed for an abuse of discretion.	Can a trial court dismiss a complaint as a sanction if it finds that a party has willfully disregarded a court order?	Pretrial Procedure - Memo # 6506 - C - TM.docx	ROSS-003304870-ROSS- 003304872
Nagy v. Dist. Court of City & Cty. of Denver, 762 P.2d 158	307A+746	Imposing sanction equivalent to dismissal for failing to file trial data certificate was clear abuse of discretion where record did not indicate that failure to file trial data certificate resulted in any prejudice to either party, and where other party was equally negligent in failing to file trial data certificate. Rules Civ.Proc., Rule 121.	Is imposing a sanction equivalent to a dismissal in any circumstance?	034778.docx	LEGALEASE-00145393- LEGALEASE-00145394
McGriff v. Vidovich, 699 A.2d 797	307A+552	Action is frivolous, and therefore subject to dismissal before court considers petition to proceed in forma pauperis, if, on its face, action does not set forth valid cause of action.	Is an action that is frivolous subject to dismissal before court?	035124.docx	LEGALEASE-00146149- LEGALEASE-00146150
Damron v. Sledge, 105 Ariz. 151	307A+552	Courts have inherent power to dismiss a case which is collusive.	Do courts have inherent power to dismiss a case which is collusive?	Pretrial Procedure - Memo # 7266 - C - KG.docx	ROSS-003316997-ROSS- 003316998

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Osborne v. Osborne, 2 Conn. App. 635	307A+563	Failure to comply with an order of the court is ground for a nonsuit. Practice Book 1978, S 351.	Is failure to comply with an order of the court ground for a nonsuit?	Pretrial Procedure - Memo # 7383 - C - ES.docx	ROSS-003330055
Miami Beach Awning Co. v. Heart of the City, 565 So. 2d 739	307A+590.1	Circuit court's order setting cause for status conference was "record activity" within year of motion to dismiss and, therefore, barred dismissal for lack of prosecution. West's F.S.A. RCP Rule 1.420(e).	"If sufficient record activity occurs during one-year period preceding motion to dismiss for failure to prosecute, should then the motion be denied?"	11315.docx	LEGALEASE-00094491- LEGALEASE-00094492
Doss v. Food Lion, 267 Ga. 312	413+2	Any enlargement of workers' compensation benefits and remedies must originate with legislature.	Any enlargements to workers compensation should originate from where?	048227.docx	LEGALEASE-00145515- LEGALEASE-00145516
Hartman v. Clarke Cty. Homemakers, 520 N.W.2d 323	413+2	Workers' compensation is statutory and must be construed according to its language.	Should workers compensation be construed according to its language or its terms?	048262.docx	LEGALEASE-00145623- LEGALEASE-00145624
Frye v. Paine, Webber, Jackson & Curtis, 877 F.2d 396	25T+182(1)	Despite strong federal policy favoring arbitration, right to arbitration may be waived.	Can the right to arbitrate be waived?	10727.docx	LEGALEASE-00094291- LEGALEASE-00094292
Borowiec v. Gateway 2000, 209 Ill. 2d 376	307A+622	A motion to dismiss on the pleadings attacks the legal sufficiency of the complaint; such a motion does not raise affirmative factual defenses, but alleges only defects appearing on the face of the complaint. S.H.A. 735 ILCS 5/2-615.	Will a motion to dismiss under statute governing involuntary dismissals assert an affirmative defense or other matter that avoids or defeats the plaintiffs' claim?	11381.docx	LEGALEASE-00094039- LEGALEASE-00094040
Young v. United States, 97 U.S. 39	384+1	"Treason" is a breach of allegiance and can be committed by him only who owes allegiance either perpetual or temporary.	Is breach of allegiance committed only by a person who owes allegiance?	11441.docx	LEGALEASE-00094389- LEGALEASE-00094391
United States v. Madigan, 300 U.S. 500	15A+2263	Administrative construction by Veterans' Bureau of statute providing for revival of lapsed policies held of persuasive force in suit involving rights under statute. World War Veterans' Act 1924, S 305, as amended by Act July 2, 1926, 38 U.S.C.A. S 516.	Is the administrative construction given to the Veterans' Bureau of persuasive force?	008731.docx	LEGALEASE-00148012- LEGALEASE-00148013
United States v. Brunner, 457 F.2d 1301	34+20.10(2)	Selective service regulation creating a duty on local board to induct a registrant within a maximum 120 days from induction order or cancel order to report for induction is inapplicable to registrants who refuse to appear for or submit to induction.	Does the one-hundred-twenty (120) day limitation apply to a registrant who has failed to appear for and submit to induction?	Armed Services - Memo 307 - RK_57616.docx	ROSS-003294573-ROSS- 003294574
People v. Blair, 1 Ill. App. 3d 6	67+45	Whether entry is initially made with requisite intent to commit felony or theft is question for jury in burglary prosecutions. S.H.A. ch. 38, S 19-1(a).	Can burglary be in a public place?	Burglary - Memo 248 - SB_57626.docx	ROSS-003323403-ROSS- 003323406
Wolcott v. Frissell, 134 Mass. 1	296+6	Under Rev.St.U.S. SS 4785, 4786, 5485, 43 U.S.C.A. SS 842-844, or St. U.S. June 20, 1878, c. 367, S 2, 20 Stat. 243, 43 U.S.C.A. S 842 note, an attorney, who has received the fee therein prescribed for services in procuring a pension, is not entitled to maintain an action, against a person other than the pensioner for a larger fee, upon an alleged promise of such person to pay him for his services as much as they were reasonably worth. The statutes clearly prohibit the receiving of additional compensation for such services, not only from the pensioner, but from any person.	Is it lawful for a person to receive for his servicesin a pension case a greater sum than that provided by statute?	022834.docx	LEGALEASE-00147836- LEGALEASE-00147837

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Schwab v. Ginkinger, 181 Pa. 8	157+450(5)	In an action by an administratrix to recover the proceeds of a pension check payable to deceased, and alleged to belong to him at his death, defendant claimed the right to retain the money, and introduced a writing as follows: "And the said (deceased) further agrees that if his said son (defendant) shall provide for him just and right during his natural life, that the balance remaining of his estate shall be for his compensation, etc., in getting said pension, etc." Plaintiff contended that the agreement was void under the pension law, which imposes a limit on the fee chargeable for prosecuting a pension claim. Held, that the writing required explanation, and hence it was error to reject parol evidence that deceased gave the check to defendant solely in consideration that defendant should provide for him during the rest of his life, and not as compensation for getting the pension.	Does receiving pension benefits from a pensioner as compensation violate pension laws?	Pension - Memo 64 - JK_57650.docx	ROSS-003306887-ROSS-003306888
Crane v. Inhabitants of Linneus, 77 Me. 59	163+49	A verbal promise by a pension claimant to pay a debt out of his pension money is not a "pledge, mortgage, assignment, transfer, or sale," under Rev.St.U.S. S 4745 (38 U.S.C.A. S 129).	"May a pensioner pledge, mortgage, assign, transfer, or sell his pension benefits?"	Pension - Memo 65 - JK_57651.docx	ROSS-003278361
Glisson v. City of Marion, 188 Ill. 2d 211	13+13	Lack of standing is an affirmative defense, which the defendant bears the burden to plead and prove.	Is lack of standing an affirmative matter?	Pretrial Procedure - Memo # 7481 - C - SKG_57520.docx	ROSS-003284988-ROSS-003284989
Holder v. Orange Grove Med. Specialties, P.A., 54 So. 3d 192	307A+675	Motions for failure to prosecute are considered on a case-by-case basis. Rules Civ.Proc., Rule 41(b).	Are motions to dismiss for failure to prosecute considered on a case-by-case basis?	11011.docx	LEGALEASE-00094713-LEGALEASE-00094714
Jones v. Jones, 16-536 (La. App. 5 Cir. 4/26/17), 220 So. 3d 855	307A+690	When a suit is dismissed on the basis of abandonment, the dismissal is without prejudice. La. Code Civ. Proc. Ann. art. 561.	Is a dismissal without prejudice when a suit is dismissed on the basis of abandonment?	11070.docx	LEGALEASE-00094228-LEGALEASE-00094229
Argence v. Box Opportunities, 95 So. 3d 539	307A+581	Dismissal of an action on grounds of abandonment may only be made without prejudice. LSA-C.C.P. arts. 561, 2129, 2164.	Is a dismissal on the grounds of abandonment a dismissal without prejudice?	11241.docx	LEGALEASE-00094609-LEGALEASE-00094610
Fit Tech v. Bally Total Fitness Holding Corp., 374 F.3d 1	25T+145	Only accounting issues concerning computation of earning schedules and thus supplemental payments due sellers under asset purchase agreement were referable to accountant under agreement terms, as opposed to additional disputes about operation of business, even if they affected level of earnings; disagreements referable to accountant were defined in accounting terms in agreement.	Does it make sense to assume that accountants would be entrusted with evaluating disputes about the operation of the business?	007822.docx	LEGALEASE-00148857-LEGALEASE-00148859
Schoenduve Corp. v. Lucent Techs., 442 F.3d 727	25T+143	Arbitrator had authority to decide quasi-contract and estoppel claims included in demand for arbitration, where other party did not object, and agreement, by permitting arbitration of disputes arising out of or relating to agreement regarding commissions, did not preclude consideration of issues outside parties' contract. 9 U.S.C.A. S 1 et seq.	Does the language any dispute arising out of or relating to in an arbitration agreement cover every dispute between the parties having a significant relationship to the agreement?	007838.docx	LEGALEASE-00148873-LEGALEASE-00148874